ISSA Proceedings 2002 – Are Musical Arguments Possible ?

1. Introduction

Recent work on argumentation suggests that images, gestures and other non-verbal elements may play a crucial role in argument (see Birdsell & Groarke, 1996; Blair, 1996; Gilbert, 1997; Groarke, 1998; and Lunsford, Ruszkiewicz, & Walters, 2001). In the wake of such research, I want to ask how argumentation theory should understand the role that music and other non-verbal sounds (sounds other than words and sentences) play in argumentative exchange **[i]**.

I shall understand questions about music and arguments as questions about arguments as they are understood in the theory of argument. One could talk of musical arguments in a more figurative sense, to describe formal relationships between or within particular pieces of music. A composition might, for example, be said to contain two musical themes that 'argue' with one another, if they compete for attention in a way that culminates in some resolution of their differences. There is much that might be made of musical arguments in this sense, but I must leave them for elsewhere.

In the present paper, I understand musical arguments as arguments in the traditional sense associated with logic B as attempts to convince someone of a conclusion by providing them with reasons for accepting it. My aim is a tentative account of the role that music and other non-verbal sounds play in arguments of this sort. In keeping with the emphasis that contemporary argumentation theory places on real argument, I will discuss musical arguments in the context of examples of actual argument, not by pursuing a philosophical discussion of the meaning and analysis of music (a discussion which would require an elaborate account of formalist and expressionist theories of music and aesthetics).

In sketching an account of musical argument, I am not claiming that *all* or *most* music argues. We can imagine a situation in which the playing of a Rachmaninoff piano concerto is properly understood as argument – when a concerto is played as background to an advertisement or a political commentary, or as proof of the composer's ability to create a certain kind of music. This said, musical

performances of this sort are normally intended for entertainment or aesthetic appreciation, and cannot be classified as attempts to establish some conclusion. In view of this, the argumentative use of music is properly described as one of its secondary or derivative functions.

It would be a mistake to conclude that a comprehensive theory of argument does not need an account of music. The more commonly recognized building blocks of argument – sentences and images – are also elements that have many non-argumentative uses, but this does not diminish their argumentative significance. In discussing the world of actual argument, it is a mistake to generalize about the significance of words, images or music, for their importance varies depending on the arguments in question. If we define a 'musical argument' as any argument that has a meaning that depends on the music, then it is not difficult to find cases of musical argument. In some of these cases, words are more important than music, but in others music plays a more significant role in conveying the meaning of the argument (sometimes because there are no words present). In most cases, musical arguments are concatenations of images, music and words that draw meaning from all these elements, as well as the ways in which they work together.

2. Music That Accompanies Argument
A plausible account of music and argument requires a distinction between music that merely accompanies an argument and music that is a more integral part of an argument's content. Sometimes music accompanies argument almost by accident, as when one expounds an argument while a radio, an orchestra or a CD plays in the background. In other cases, the music that accompanies an argument functions as a musical "flag" that introduces, announces or comments on the argument in question. Imagine a film that shows a newly elected prime minister driving down the road to deliver a speech to an assembled audience (a speech which will present an argument). If music from the final movement of Mahler's *Symphony No. 1* plays in background, it declares that "This is a great moment" and heralds the significance of what follows.

The film maker may comment more negatively on the argument in question by playing Chopin's *Funeral March*, in this way communicating to the viewer that what follow is troubling in some way (in documentary film, footage of Hitler's rise to power is often accompanied by such strains). A Charlie Chaplin piano piece may, in contrast, convey sweetness and harmlessness, while a slapstick composition from *The Keystone Cops* communicates the message that the prime

minister is comical, and not to be taken seriously.

Musical flags exploit the way a piece of music can establish a tone, announce an occasion or comment on a situation. Music's ability to do so can be used to great effect, and may, by attracting our attention, determine which arguments we do and do not entertain. It takes advantage of our inclination to something that follows or accompanies a piece of music that captivates us. This makes musical flags important devices in argumentative exchange, but they are not themselves arguments, and contribute to argumentative discourse in, at best, an indirect way, directing us to an argument that follows. To show that music can play a more integral role in argument we need examples that demonstrate that music can be a much more direct means of offering reasons for some conclusion.

3. Music, Condoms and Advertising
One could take examples of musical argument from the world of music theory, where debates about musical expression or composition may incorporate music itself. One might also look to films, where soundtracks play a crucial role in conveying the meaning of a scene or narrative. In the present context I will, however, focus on examples from the world of radio and television advertising, for this is the contemporary context in which music meets argumentation in the most pervasive way.

I take my first example from a series of radio advertisements for Durex Sheik Condoms. The basis of the ad campaign is an attempt to compare non-verbal sounds in a way that illustrates the difference sex with ordinary condoms and sex with durex sheet condoms. The comparisons re of interest in the present context because the ads do not make the comparisons verbally, but by juxtaposing music – and sometimes other sounds – in a way that communicates the difference. According to one ad:
Having sex with ordinary condoms is like this: [one then hears a polka band playing a rather pedestrian polka].
But having sex with Durex Sheik condoms is like this: [one then hears rock music with a rock beat].

It is easy to understand this advertisement as an argument. For it purports to give us a reason to buy Durex Sheik condoms (rather than ordinary condoms) – because sex with Durex Sheik condoms is more enlivening than sex with ordinary condoms, as rock music is more enlivening than a pedestrian polka. We can

capture the formal features of the music by saying that the ad contains a subargument for the premise of this argument, for these formal features suggest that sex with ordinary condoms is boringly predictable, hum drum and ordinary, while sex with Durex Sheik condoms is wild and passionate.

In the present context, it matters only that the advertisement can be recognized as an argument, and thus demonstrates one way in which music can convey a meaning that is an integral part of an argument. In this case the argument is presented in verbal and musical terms. In other variants of the ad, non-verbal sounds function in the same way. One of the ads thus claims that:

Having sex with ordinary condoms is like this: [one then hears the sound of an automobile engine which won't turn over].
Having sex with Durex Sheik condoms is like this: [one then hears the sound of an automobile engine that roars into life and the squeals of a car that races down the road].

Here the suggestion is that one should use Durex Sheik condoms because they promote better sex. In this case, the formal qualities of the music suggest that sex will be wilder and more exciting, and that performance will improve, as the performance of the second car is an obvious improvement over the performance of the first.

Once one recognizes these examples as arguments, they can be assessed and analysed in the same way as most verbal arguments B by asking whether the conclusion follows from the reasons (premises) presented, whether these reasons are plausible, and so on. A detailed assessment is not important here, and it suffices to say that the arguments fail to provide any convincing evidence for their unsupported premises, and that they fail to consider a variety of considerations that should probably inform a decision about the condoms one should buy (price, reliability, and so on).

4. Music, Freedom and Equivocation
Some of the dynamics of musical arguments on television are well illustrated in a Cotton Incorporated advertisement for cotton clothing. No words appear in the ad until the final frames, when the word COTTON grows at the bottom left hand side of the screen, followed by the phrase WORK IT. Visually, this inconspicuous display of the cotton logo is prefaced by a series of scenes which feature office

workers in their work environment.

Those workers clad in what must be cotton suits dance to techno music. The scene is odd and eye catching, primarily because their dance movements are contorted and incongruous and odd. These movements are formally in keeping with the music, which is full of odd sounds that include the bell of an elevator and the whirring of office machines in the background. The message conveyed by the music and the dancing might be summarized as the claim that one should wear cotton to work (and in this sense *work it* because it allows one the freedom to move – a freedom that is necessary if one is to move in these contorted ways (something that requires that one *work* one's cotton garments in this way).

There is, however, a deeper message that is buried in the visuals and the music. For the scenes of office workers dancing in wild and bizarre ways inside of offices and an office environment implies a much broader kind of freedom than the freedom to comfortably move inside one's clothes. Thus it implies the freedom to behave as one likes at work, regardless of the expectations that characterize other workers, and the social conventions that govern a conservative environment. The claim that cotton garments give one freedom in this way is confirmed in a number of scenes where office workers act in ways that are obviously unacceptable in an office – by dancing on desks, by gyrating wildly to strange music, and so on. In one particularly prominent case, an office girl pirouettes around a photocopy room as she pulls handfuls of shredded paper from a trash basket and casts them about the room.

In summarizing the argument in this advertisement, one may wish to capture the variety of cotton outfits it displays, for this is one prominent feature of the visuals. In view of this, one might summarize the argument as: "You should wear cotton garments because cotton (which is available in a great variety of outfits) makes you free."

One aspect of the appeal to freedom here is the claim that cotton clothes make you free to move – in the sense that one can move comfortably, even when one assumes an awkward pose, if one is wearing cotton. But this suggestion is coupled with the deeper suggestion that cotton will make you free in the sense that you will be able to behave in a free spirited way at work. So understood, the ad is a musical argument which is guilty of the fallacy of equivocation, for it equivocates on two different meanings of "freedom" – i.e. "freedom to move comfortably" and "freedom to behave as you want at work." In assessing and criticizing the argument, we need to treat the ad the way we treat any case of equivocation – by

disentangling these two senses of freedom and evaluating the argument accordingly (which means, of course, that we must reject the suggestion that cotton clothes will make you free in the broad sense the advertisement has suggested).

Once we recognize the argumentative content of musical arguments of this sort, they can be assessed in terms that are already well established within argumentation theory. In short, a musical argument may be fallacious, may have implausible premises, may have a conclusion that does not clearly follow from its premises, may rely on analogy or an appeal to authority, and so on. In view of this, recognizing musical arguments allows us to extend the critical eye of argumentation theory to a new realm that it has traditionally ignored. It is particularly significant that this can be done in a way that employs the standard theoretical understanding of good argument that characterizes contemporary argumentation theory.

5. Zoom, Zoom B Pragma Dialectics

This is not the place for a detailed discussion of the argumentative significance of music and other non-verbal sounds, but I would like to note that argumentation theory provides a ready explanation of this significance within pragma dialectics. For two notable features of its account of argument are the emphasis it places on the principles of communication that govern argumentative speech acts, and its explicit recognition of the role that implicit or "indirect" speech acts within argumentation. According to pragma-dialectics, an argument is an attempt to defend a standpoint (Eemeren &Grootendorst, 1992, 14), and this attempt need not be explicit. Indeed, "in practice, the explicit performance of a speech act is the exception rather than the rule" (Eemeren & Grootendorst, 1992, 44). Sometimes indirect speech acts are implicit premises or conclusions but Groarke, 2002 has shown how the pragma-dialectical account of such acts can be used to understand the content of visual arguments that are conveyed through images instead of words. I believe that they can similarly be used in understanding and assessing musical arguments.

Two features of the pragma-dialectical account of indirect speech acts merit mention here. One is the suggestion that the attempt to understand argument images that argue as implicit and indirect speech acts is best furthered by a "maximally argumentative interpretation" which ensures that their argumentative function is fully recognized. There is, pragma dialectics points out, no way to

know the exact intentions of any individual who expresses a standpoint or argues. In view of this, we should be wary of making this our goal when we interpret speech acts. Instead, we can apply pragma-dialectical "principles of communication" which will help us distill the meaning of indirect speech acts. These principles of communication can be summarized as the stipulations that speech acts must not be:

1. incomprehensible,

2. insincere,

3. superfluous,

4. futile, or

5. inappropriately connected to other speech acts (Eemeren & Grootendorst, 1992, 49-55).

In his account of visual communication, Groarke, 2002 reduces these principles to three principles which suggest the following general principles of musical communication:

1. The performance of music in argument is a communicative act that is in principle understandable.

2. Music in argument should be interpreted in a way that makes sense of the major (musical) elements it contains (i.e. its interpretation must make "internal" sense).

3. Music in argument should be interpreted in a way that makes sense from an "external" point of view (i.e. that fits the social, critical, political and aesthetic discourse in which the image is located).

The principles can also be applied, not only to music, but also to the interpretation of other non-verbal sounds that play a role in argument.

While I cannot discuss the application of these principles in great detail, their use can be illustrated in the context of particular examples. The cotton ads I have already discussed illustrate one way in which the internal structure of music may fit with an external context, for they illustrate the point that music is frequently associated with movement (in that case in order to promote the message that cotton promotes the freedom of movement). Music's ties to movement are a natural reflection of the temporality that is one of music's characteristic features – musical composition being a form of art that has a distinct beginning, proceeds through a series of notes and chords, and comes to an end. To this extent, it might be said that music itself moves.

The motion that is an essential part of music may help explain why music moves us emotionally. In a less elevated context, it may explain why music plays such a crucial role in automobile advertisements, for they typically emphasize the motion and the mobility of the vehicle in question (the "mobile" in "automobile").

One series of advertisements that illustrates this connection is the "zoom, zoom" series which Mazda has created, first to promote the Miata sports car, and then to promote a range of other vehicles in a way that capitalizes on the success of this campaign. The ads are not verbal arguments made up of easily recognizable and decipherable propositions, but they are a clear attempt to make a case for the standpoint that we should purchase a Mazda motor car. The proposed principles of musical communication tell us that we must assume that the phrase "zoom zoom" and the music in the advertisement are not incomprehensible, but contribute in some way to the meaning of the argument. In determining the specific meaning, we need to find an interpretation of these sounds that makes sense from an internal and an external point of view – i.e. that makes sense of the formal qualities of the sound, and the context in which they appear.

This is not difficult to do. Mazda itself has explained its "zoom zoom" theme well, describing it as an attempt to capture the joy and exhilaration of motion. "Zoom zoom "is a phrase children use when they imitate the sound of a car engine. It expresses a fascination with motion experienced by a child playing with a toy car or riding a bike. The Mazda brand conveys this feeling and emotion in its products and Zoom-Zoom captures this feeling perfectly. Mazda's new products deliver exciting and exhilarating driving experiences for customers who still have that childlike fascination with motion." (Mazda, 2002)

The formal qualities of the music underscore this message, for the rhythm and the notes convey speed, agility and fun. Combined with visuals that convey a similar message, the advertisements can be seen as a non-verbal way to propound the argument that "You should purchase a Mazda because it will allow you to experience the joy of motion." Different Mazda ads develop this theme in particular ways. The advertisement for the Mazda Tribute SUV forwards this basic theme in the guise of visuals designed to demonstrate that the tribute combines the agility and speed and handling of a sports car (the Mazda Miata) and the off road performance of an SUV. In all the advertisements, music and the phrase "zoom zoom" play a key role in the making of the argument.

6. Text and Subtext

I have used this paper to argue that music and other non-verbal sounds can play a significant role in argument, and to sketch an account of argumentative communication that recognizes this role. In doing so, I have tried to broaden the horizons of argumentation theory, allowing it to deal with a broader range of arguments than those encompassed by the traditional verbal paradigm.

Willard (1989, 155) has written that "If we restrict argument to propositions, then most mass messages are not arguments. Television commercials join hands with the whole array of aesthetic images – music, electronic effects, drama, comedy, layout design, and even dance – to create persuasive effects." The proposed account takes a different approach than Willard, for though it grants his point that the mass media tends to combine a "whole array of aesthetic images" it also suggests that these concatenations of music, visuals and texts can often be understood as argument in a straightforward way that uses the principles of communication to distil the implicitly propositional content they contain.

Looked at from this point of view, we might distinguish the literal text that appears in arguments and a deeper subtext that incorporates all the elements of the argument. The latter may include indirect speech acts like implicit premises and conclusions, as well as visual images, music and other kinds of sounds. Taken one step further, the subtext includes claims and narratives with metaphorical meanings, morals or symbolic significance.

An account of argument which hopes to capture the richness of ordinary argument must account for the richness of this subtext and all the meaning and significance it contains (in a particular context, even intonation and tone of voice may play a crucial role in conveying the argumentative message). There are good reasons for thinking that an account of argumentative communication along pragma-dialectical lines may allow argumentation theory to fully recognize this subtext. The present account of musical argument is intended as one step in this direction.

NOTES

[i] My curiosity about music's role in argument is rooted in a course on argumentation in which I had the good fortune to discuss the relationship between music and argument with a music student at Laurier – Sharon Dewey. I am indebted to her for our discussions.

REFERENCES

Birdsell, D & L. Groarke (1996). Toward A Theory of Visual Argument. *Argumentation and Advocacy*, 33, 1-10.

Blair, J.A. (1996). The Possibility and Actuality of Visual Argument. *Argumentation and Advocacy*, 33, 23-29

Eemeren, F.H. van & R. Grootendorst (1992). Argumentation, *Communication and Fallacies*. Hillsdale: Lawrence Erlbraum Associates.

Gilbert, M. (1997). *Coalescent Argument*. Mahweh: Lawrence Erlbraum Associates.

Groarke, L. (1998). Logic, Art, and Argument. *Informal Logic 18*, 105-130.

Groarke, L. (2002). Toward A Pragma-Dialectics of Visual Argument, F. H. van Eemeren (ed.), *Advances In Pragma-Dialectics*. Amsterdam: SicSat.

Lunsford, Andrea A., John J. Ruszkiewicz, & Keith Walters (2001). *Everything's an Argument*. 2nd Edition. New York: Bedford/St. Martin's Press.

Mazda (2002). *Mazda Goes Zoom Zoom With New Brand Message*, Mazda Official Web Site, <http://www.mazda.com/mnl/200204/zoom-zoom.html>. Accessed June 16.

Peters, Eric (2001): They aren't a ride on the wild side, *The Detroit News*, March 30. Available at <http://detnews.com/2001/editorial/0103/30/index.htm>. Accessed June 16, 2002.

Willard, Charles Arthur (1989). *A Theory of Argumentation. Studies in rhetoric and communication*. Tuscaloosa : University of Alabama Press, 1989.

ISSA Proceedings 2002 – Coductive And Abductive Foundations For Sentimental Arguments In Politics

In 1936 A. J. Ayer wielded the ax that chopped away sentimentality and other emotions, ethics, and aesthetics from their roots in rational argument theory. He divided the world into the arenas of sense and non-sense. The verifiability principle was used for the sorting process: that which was verifiable, accessible to the senses, was adjudged sensible and hence capable of supporting truth-claims and reasoning about them, while everything else was relegated to the world of non-sense. (And, of course, it was easy to remove that hyphen.) Mathematics, ethics, self-expressive statements, and aesthetic judgments were dispossessed and dispatched to non-sense. In Ayer's (1936/1952: 108) words, sentimental arguments are "used to express feelings about certain objects, not to make any assertion about them." Thus, they could be considered "normative," yet "unanalysable... pseudo-concepts" (107).

And so, to Ayer and much of the western world of ethics and aesthetics since then, value and aesthetic theories – other than those grounded on utilitarian or admittedly subjectivist speculation – have faced the so-called "problem of truth." Ethical and aesthetic statements or reports of feelingfulness have been confronted with serious problems in reasoning because of modernist assumptions that premises in arguments should be propositions capable of being assessed as true or false (1936/1952: ch. V, passim). If feelings, moral pronouncements, and aesthetic judgments can be expressed but not asserted, then there is no place for evidence in support of such propositions that, when taken together, would be recognized as an argument.

A year ago at the biennial Alta conference (Gronbeck, 2002), I started an inquiry into these problems particularly as they operate in a portion, at least, of the American political arena. I examined some of the events of the 2000 Republican and Democratic national political conventions. Each party hosted a four-day convention filled with broadcast videos, parades of citizens and politicians who synecdochally re-presented or epitomized the policies advocated in their platforms and by their leaders, and both of the presidential candidates – Governor George W. Bush and Vice President Al Gore – permitted viewers to see personalized, romanticized depictions of their lives.

Regarding those personalized videos, Bush's campaign offered us a nine-minute documentary of his life as a "great American dream" built around value-laden

invocations of safe environments, the Church, entrepreneurial promise, and limitless horizon. It was a dream where, as leader, he would handle national difficulties with strength, humor, caring, and love; and where he would govern with the visions of Theodore Roosevelt, Ronald Reagan, John Kennedy, Martin Luther King, Jr., and, for goodness sakes, even Richard Nixon. Driving through a ranch in a Wrangler Jeep, Bush ended the video talking about his pride, his Americanness, and his overflowing love – a veritable romance between himself and the people. Gore's team assembled a twelve-minute slide show that was scripted for and then read by his wife Tipper, as she said, to "show you a little more about Al and life in our family" and to present us with "the man I love." As the pictures clicked by, Tipper depicted Al as a good listener, wise, strong, and independent; as a father-hero who loved his family and served in the Army, spending time after Vietnam at the Vanderbilt School of Religion before becoming a journalist; and as an idealistic politician with a warm leadership style, the ability to rise to his "destiny" when he challenged toxic waste, yet always with time for his family. The slide show was built around the notion that Gore's private or personal virtues would become public virtues when he was installed in the presidency.

The Democratic and Republican national conventions of 2000 generally, and those multimediated constructions of the candidates more particularly, are emblematic of where American political communication has been going over the last half-century. Rhetorical analysts such as Roderick Hart (1999) have become alarmed, convinced that not only is politics becoming highly sentimentalized but that emotionality is, in ways that Ayer understood, destroying the rational bases for political choice and policy: "Television... has ushered in a Second Renaissance, substituting mass emotion for mass subservience to the church in Rome. Television has also ushered in a Second Enlightenment, requesting that the brain, too, serve the dictates of the heart" (153). Here, indeed, to Hart is the destruction of a scientistically sound, modernist political practice where policy proposals can be tested for their evidentiary and inferential soundness – that is, for their truth and validity.

In the Alta paper (2002), I suggested that we turn, not to traditional inductive and deductive logics, but to alternative reasoning mechanisms when discussing political argumentation of the type so often exhibited in televised political events. Specifically, I examined Martha Nussbaum's discussion of so-called "rational

emotions" (1995: ch. 3), which in turn was based on a reading of Adam Smith's *The Theory of Moral Sentiments* (1759/1976). She drew upon Smith's conception of sympathy as a psychological state whereby some depiction of suffering or trouble causes an observer to feel sympathy for that which is depicted. Smith was not arguing that the spectator and the object of spectating became identical or identified as such. Rather, the spectator remained what Smith called the "judicious spectator," which in Nussbaum's as well as Smith's words (1995: 73-74, quoting Smith, 12) means that "both empathetic participation and external assessment are crucial in determining the degree of compassion it is rational to have for a person: 'The compassion of the spectator must arise altogether from the consideration of what he himself would feel if he was reduced to the same unhappy situation, and what is perhaps impossible, was at the same time able to regard it with his present reason and judgment.'" Nussbaum's conception of rational emotions, therefore, depended upon the phenomenological co-existence of emotion and rational judgment in a single psychological act.

In this paper I will not review Nussbaum's arguments about judicious spectators, imagination and ethical judgment, or relationships between the fictive and the social worlds that allow literature to become what Kenneth Burke (1964) called equipment for living. I did enough of that in the Alta paper. I want here to explore more systematically what I identified as the reasoning mechanisms featured in her analysis of poetic justice. More specifically, I want to examine what are called abductive and conductive inferential processes – two kinds of arguments she featured in her literature-based arguments about social-political matters. I want to free abduction and conduction from her literary applications and, yes, explore their utility in helping us deal with televised political sentimentality. Are such arguments testable in useful ways?

First, then, I will define abductive and coductive argumentation, and then retrofit sample discourses from the 2000 Republican and Democratic national party conventions to their formal characters, so that in the third place I can explore the issue of the rational assessment of such arguments. Can abductive and conductive arguments be validated? If so, we may well have isolated analytical instruments for probing contemporary, mass-mediated political discourses not only from the United States but, by now, from most of the rest of the world.

1. Abductive and Coductive Inference

One of the mechanisms that Nussbaum asserted underlies the work of the

judicious spectator is what students of argument will recognize as C.S. Peirce's conception of abduction (Bouissau, 1998). To Peirce, abduction is firstness, that is, the tool for exploring existence or actuality, preceding the secondness of deduction and thirdness of induction. It is less a form of logic per se than a mechanism for critical thinking, built around the positing of hypotheses that account for features of the observed world (Behrens & Yu, 1995). More technically, in abductive reasoning an observation is made, alternative hypotheses accounting for the observation are offered, and then one is selected that seemingly best accounts for it. Then, additional observations can be made, to check on the power of the selected hypothesis to account for what has been seen. If additional observations do not conform to the hypothesis, then others can be explored until a better one can be found. Students of grounded theory (Glaser & Strauss, 1967) will recognize such toggling back and forth between observation and hypothesis-building; abductive reasoning has been a part of qualitative social sciences for more than a third of a century. One way to move toward conclusions based on hypotheses and their empirical testing, therefore, even when the subject matter involves human moral and aesthetic values, is via abductive reasoning.

Nussbaum's and Smith's judicious spectator also can offer debatable propositions that operate via what she (1995: 76) called, following Wayne Booth (1988), coduction. In his book, *The Company We Keep: An Ethics of Fiction*, Booth was exploring methods whereby a reasonable and constructive kind of ethical criticism – working outside the normative ethical criticism flowing from Marxists and others in the post-everything camps – could be rationalized in literary practice, of course, but also in "all narratives, not only novels, short stories, epics, plays, films, and TV dramas but all histories, all satires, all documentaries, all gossip and personal anecdotes, all biography and autobiography, all 'storied' ballets and operas, all mimes and puppet shows, all chronicles – indeed, every presentation of a time-ordered or time-related experience that in any way supplements, re-orders, enhances, or interprets unnarrated life" (14). More explicitly, Booth was seeking an inferential form of argument that could overcome the fact-value split, recognize that successful argument not only gains assent but conquers critical doubt, and avoid the problem of different values simply canceling each other in disputes (ibid.: ch. 2).

The key, to Booth, was the fact that the ethics of narrative must be reciprocal (42). While the ethics of, say, medicine can be unidirectional, with the doctor

charged in his or her professional role with morally telling patients what to think and do and with patients in no way guided necessarily by a ethical code, the ethics of literature is interactive. Both tellers and those told-to interact with the stories, and, by extension, those listening to or reading narrative criticism can have a knowledge of those stories sufficient enough to aid them in judging the critics' interpretive and evaluative arguments about those narratives. To make this argument more concrete, the analyses that I'll offer of the 2000 Republican and Democratic national parties convention videos will be presented in ways that anyone who'd seen the videos could engage me in conversation. Humanists work, certainly, at times in vocabularies arcane enough to drive citizens out of the arenas of critical analysis, yet their subject matters usually are the kinds upon which even their everyday friends and their mothers could and probably do have opinions. It is that reciprocity of positions in relationships between critics and their readers that suggests the importance of conductive reasoning to Booth.

Coductive reasoning is the kind you engage in whenever you compare some experience now before you with others you have had, judging or weighing it against those others so as to evaluate it as better or worse, more beautiful or ugly, more just or unjust, than those others. Like abductive reasoning, conductive reasoning is experientially based and rises to a level of generality in its hypothesis-building. But, unlike abductive reasoning, it is also public in its search for confirmation. It is offered as a testable proposition – that is, a proposition supported by reasons – that is presented to others for inspection and assessment. That is what we earlier termed the reciprocal move, leading, as Booth said, to the question "How does my coduction compare with yours?" (73). "In short," he said, "we do not first come to know our judgment and then offer our proofs; we change our knowledge as we encounter, in the responses of other readers to our claims, further evidence … When it is performed with a genuine respect both for one's own intuitions and for what other people have to say, it is surely a more reasonable process than any deduction of quality from general ethical principles could be" (76).

Abductive and conductive inference-making come out of attempts, therefore, to explore relationships between the literary and the social worlds. Perhaps it is their source in those most informal of logics, the logics of critical-cultural studies, that makes them so suitable to the study of televised politics.

2. The 2000 Republican and Democratic Party National Conventions

To examine the sorts of hypothesis-making and inference-drawing that work with abductive and conductive reasoning about sentimental discourse, let me return to two different kinds of emotion-laden segments from the 2000 national party conventions in the United States. I will examine a patriotic musical performance by Melissa Etheridge opening the first evening of the Democratic party convention, and a video about children for the GOP's "Education Night," backgrounded by Michael Smith's popular Christian rock song, "My Place in this World" (Appendix A).

2.1 The Etheridge Patriotic Montage
The public, televised portion of national party conventions generally opens with some patriotic event involving the national anthem. On the opening night (14 August 2000) of the Democratic convention, pop singer Melissa Etheridge, who has been involved in high-profile civic and cultural agitations especially related to lesbian lifestyle issues and fur, performed a montage of three songs in the patriotic slot: the national anthem, "The Star-Spangled Banner," the turn-of-the-century hymn to the country, "America the Beautiful," and the Woody Guthrie song that was immortalized in 1960s counter-culture, "This Land is Your Land." Here was a piece of unadorned patriotic gore touching the most basic of civic sentimentalities for many Americans.

Appendix A contains a transcription of the montage, and the actual event is available on my website (Gronbeck, 2001). What Etheridge succeeded in doing was integrating the official discourse of the state (three lines from the national anthem) with the 1913 romantic ode to the land (ten lines from "America the Beautiful") and with Guthrie's declaration that the country's government and its territory belong to the people (ten lines from his 1940 song). The montage thus attempted a fusion of distinctively state or governmental, territorial or spatial, and civic or political discourses about the United States into a series of concentric circles. The outer circle or layer was constructed out of the opening two lines and the closing line from the national anthem. The next circle, two passages from "America the Beautiful," was provided by four lines about the physical beauty of the country near the beginning of the medley and six lines about God's grace and the people's brotherhood near the end. The middle was made out of ten lines from the first verse and the chorus of Guthrie's song, describing the singer's experience with the ribbon of highway, the endless skyway, and the golden valley that stretched from California to New York, from the redwood forest of the north

to the Gulf Stream waters in the south. And that song's emphatic final line was sung three times: "The land was made for you and me."

All three songs are highly evocative. They're played often and stereotypically associated with the honor of and sacrifice for the nation-state, with the beloved agrarian and majestic countryside, and with the citizens' right to take charge of the whole society, border to border. The sheer repetitiveness with which all three songs are heard publicly in various venues – sporting events, political occasions, '60s revival concerts, and even neighborhood singalongs – means that they were etched on the brainpans of most Americans watching the Democratic convention. But, the question remains, what political inferences – relative to party ideology and party activism – could be drawn from Etheridge's montage of patriotic melodies? To put that another way: she attempted to amalgamate ideas about the state, the land, and the people. Was there any political payoff for her effort?

My answer is no. To think about Etheridge's medley as an argument is, first, to charge it with incoherence. "The Star-Spangled Banner," "America the Beautiful," and "This Land is Your Land" were simply butted together in her performance. There were no musical bridges, no segues from one portion to another, no sets of accompanying images – nothing in what was sung or what was shown to the TV audience that forced the integration of the state, the land, and the people. Even though the American national anthem has been performed publicly in stylized versions at least since 1968 (Feliciano 1999) – including Aretha Franklin's soul versions at the 1992 and 1996 Democratic conventions – Etheridge played each song in a traditional fashion, except for holding the word "free" in the last line for several seconds. And, they were not forged into a coherent statement about relationships between the state, the land, and the people. The convention announcer had introduced her by saying "The music and words Melissa Etheridge has written and performed have lifted our spirits and spoken to our hearts for nearly two decades. Ladies and gentlemen, let's welcome a powerhouse singer and a terrific performer and a fervent activist for the people, Melissa Etheridge" (C-Span 2000). She showed herself the singer and performer, but not the activist. Even the jumbotron screen overhead started by showing nature scenes to accompany the "America the Beautiful" lines, but mostly just projected her image from the stage to the screen. Visibly, then, there really was no imagaic discourse constructed in conversation with her vocal communication – an opportunity lost by the Democrats.

And so, abductively, there were no grounds for advancing a political hypothesis. What were delegates and viewers to make of the medley? Should we understand it as a declaration that "the people" rule, that the *vox populi* should be the voice of the state, that citizens' interests in the land – environmentally and in other ways – should be privileged over corporate interests? Etheridge's own political past might have suggested such hypotheses, but yet there was nothing in what was performed, in how that performance was assembled, and in the other events of that evening at the convention that encourage such hypotheses. A political proposition was not advanced, nor were there other concrete events designed to resonate with what Etheridge had performed.

Consider what else appeared on stage that evening. Organizers did not develop the idea of fusing the state, the land, and its people into a more complex social vision. Actor Dylan McDermott and some children recited portions of the Declaration of Independence, with some brass-dominated patriotic music playing in the background. Nancy Santana's video on her family and the importance of governmental programs serving the people was offered, but without a patriotic gloss and with no sense of her possession of land. Senator Max McCleland (GA) and Senator Bob Kerrey (NE) presented and personally framed a video on the "courage, heroism, and sacrifice of American veterans" that drew the hall to its feet in applause, yet here was an example of the people serving the state, not the other way around. And so, while liberal parties such as the Democratic organization often worry that they are not perceived as deeply patriotic enough, the 2000 convention managed to reduce what might have been Etheridge's theme of a popular-based democracy into a eulogy to the state, per se.

Coductively, as well, nothing can be said. You and others who might have been viewing the convention certainly could debate the political force of Etheridge's montage. You could try to convince each other that her non-conforming public behaviors, even her regular flaunting of social convention in her lifestyle and public advocacy, gave her performance political bite. Part of coductive inference-drawing is a matter of bringing past experience to bear on the present, and the other part is a kind of comparative process wherein you and others examine each other's past experiences as well as the present case to see whose reasoning is the more sound. Yet, I think, those acts would get you nowhere in this example because there seemed to be nothing in Etheridge's performance itself, beyond the announcer's statement of her activism, that was in anyway linked to that past. And further, as I've suggested, the rest of the events from the platform that evening bespoke of patriotic feelings, not the control of the state and the land by

the people.

Now then: if I have worked fairly with the Etheridge montage of patriotic songs that presumably were meant to sentimentalize the delegates' and the television viewers' relationship with the Democratic party and with the evening's continued paean to love of country, then we must conclude that those sentimentalized performances provided inconsistent and unfocused bases for political identity and action. I'll come back to that assertion later.

2.2. The Republican Video on Education

We face a different situation with the Republican convention's video built around the Christian pop song, "My Place in This World" (see Appendix A for the lyrics). Michael W. Smith wrote the music, co-wrote the lyrics with Wayne Kirkpatrick, and then performed it. He's a vortex in the Christian popular music movement. His website, for example, advertises not only his own CDs (his latest is called "Worship") also but *iLumina* (an interactive Bible on CDs), family Christian stores, Rocketown Records (a Christian recording label he established in 1995), the Rocketown Youth Club, and the Presidential Prayer Team, which encourages individual prayers in support of the President of the United States as he deals with pressing issues. And the song, "My Place in This World," was a 1991 hit that helped cement his reputation. Its Christian message was muted enough – with only one reference to God in the phrase "I need Your light to help me find/My place in this world" – to be playable in a national political context.

First, we should examine the music video. With the song sung by Smith playing in the background, the video itself is a simple assemblage of seven different sorts of shots:

1. head-and-shoulder shots of multi-raced children,
2. classroom pictures,
3. shots of groups of children laughing,
4. teachers in both traditional and computerized classrooms,
5. one set of images of a coach working with a sprinter,
6. graduation shots, and
7. older teens talking with pre-teen kids.

While some of the children pictured in the head-and-shoulder shots are pensive, most smile and even laugh. These are predominantly happy kids who move by the camera in a brisk fashion. The visual signs are arrayed in such a way as to create the impression of primarily early- and late-teenaged children, seeking answers yet

contented with what is happening to them.

The song itself complements the visuals, in that it's a soft-rock, thoughtful arrangement built around the singer's declaration that his is "A life of pages/Waiting to be filled," with "A heart that's hopeful [and]/A head that's full of dreams" (all lyrics in Appendix A). The second verse cries for divine answers to the questions, "Can you still hear me/Hear me asking/Where do I belong[?]/Is there a vision/That I can call my own[?]." The overall effect is one of expectantly waiting for direction and mobility; that effect is captured in the first metaphor of the song, "The wind is moving/But I am standing still."

The mixture, then, of individual, two-person, and group pictures, ranging emotionally from the contemplative to the exuberant, is coupled with lyrics calling up rites of passage myths together with the realization that such passage can occur only with outside (even divine) help. There is an unmistakable consonance between and among the visual, the acoustic, and the verbal images, producing what W.J.T. Mitchell (1994) called an *imagetext*, that is, fused codes whereby the visual, the acoustic, and the verbal signs are so interpenetrated that what we normally would call "a representation" in fact is comprised of all three sign systems. The argument of the Education Night video is grounded in an empathy for and commitment to help children work through the struggle to find their place in this world. That empathy – like Adam Smith's (1759/1976) notion of sympathy – becomes the bases for demanding of the judicious spectator some moral-yet-pragmatic political actions.

Abductively, this music video is but a framing discourse for a full evening of additional concrete events and repeated generalized themes. The evening's program was built around twin themes that regularly appeared on the jumbotron screen: "Opportunity: Leave No Child Behind" and "Opportunity with a Purpose." Blending the ideas of "opportunity" and "education" was bedrock in the Bush platform, where opportunity was to become available largely through private and local, not national, initiatives. Following the music video was a stream of individual speakers and videos featuring privately financed educational programs – from a "healthy start" ghetto program, to "pillars of character" programs, to literacy programs, to the buoyant Kipp Academy and other such mind-and-body, developmentally oriented educational systems. Each of the speakers and the videotaped programs became another datum that confirmed the implicit ideological hypothesis, "Educational opportunity is best provided by local, privatized efforts to improve educational quality for all." The abductive argument

had range and, presumably, typicality.

Coductively, the array of moral and ideological judgments articulated by the various speakers likewise was coordinated so as to reinforce each other and the dominant hypothesis. They were also available as concrete tests-for-rationality to any audience member wishing to explore the claims about the privatization of educational opportunity in the United States. Those wishing to counter with examples of equally successful public educational opportunities had to supply them themselves.

3. Abduction, Coduction, Sentimentality, and Political Argumentation

One robin does not a spring make, nor two examples a case for repudiating Rod Hart's claims about sentimentality and televised politics. My purpose, however, is less one of definitively outlining theories of abduction and coduction than of exploring some ways by which such arguments can be tested for something approaching validity.

Recall that I noted earlier Behrens and Yu's (1995) observation that abduction has less to do with logic than with critical thinking. That observation is based in part on Rescher's (1978) claim that abductive arguments are not falsifiable. Staat (1993) goes even further, arguing that abduction can but generate ideas or hypotheses; only deduction and induction can evaluate and justify them. Abductions, therefore, produce hypotheses to be tested rather than assertions to be accepted as actual declarations or judgments (Hilpinen 1992). Similarly, recall that Booth (1988) saw coduction as a process of conversational flow. He further suggested that while deductions occasionally enter that conversation, "they will always be modifiable by what *we* – not I – discover as we re-read and converse" (76, emphasis in original). That conversation for Booth must remain open, which means that literary-ethical reasoning for him is unalterably dialectical**[i]**. While individual propositions – that is, contestable statements – are to be verified, even validated in a loose sense, through experience and contestation by interlocutors, yet they can never gain the status of having-been-proved.

Yet, I hope that the two examples I offered herein suggest some means by which they can be assessed. I sought to examine Melissa Etheridge's medley in two ways: internally, through a test of coherence, and externally, through a test of resonance or reinforcement. I found it wanting in both respects: the parts did not cohere nor was the overall theme of multifaceted, citizen-based nationalism replayed in other events of that evening. The video celebrating educational

opportunity, on the other hand, showed internal coherence to the extent that the song and the video images blended so well that I could call them an imagetext, and the video itself was bracketed by the thematic announcements on the jumbotron and the thematic developments in the stories that individual speakers and video reports offered to the delegates and television viewers.

Following Booth's leads into the matter of coduction, we can go even farther. Etheridge's songs presented us with little to disagree about. What sorts of claims about sentimentalization and political action could be engaged through her performance? One could travel the experiential route, as I suggested, comparing what is publicly known about her life and commitments with what was publicly depicted in the presentation of her song. Doing that, however, might lead you to conclude that she sold out her own causes, for they were evoked in no way whatsoever. Discussing relationships between the visual and verbal-acoustic codes likewise would be a dead-end, because only a few images of anything other than the celebrity singer herself were shown. Indeed, probably the only political issue that her performance created was through the party's obvious invitation to her to sing. It signaled its left-leaning politics by calling upon her talents, but she was exhibited in a flattened patriotic medley rather than, say, through any direct statements about popular sovereignty. That meant that any leftist politics worth discussing was not presently discursively – that is, in what the audience heard and saw. Certainly audiences viewing Etheridge that evening could go no farther than Diane Ravitch did when she said "the United States has a common culture that is multicultured" (qted. in Schlesinger 1991/1993: 135). Etheridge may well embody multiculturalism, but her song echoed the common culture that the likes of Arthur Schlesinger Jr. are calling for – pluralist, not multiculturalist. In other words, the experiential test for what might have been a sentimental call for popular-based political identity and action could not provide convincing support for that identity and activity.

I am left, then, thinking that abduction and coduction – while still very much in need of theorization as a logic of action – have interesting possibilities as rationalistic structures for describing and assessing some of the kinds of arguments that were deemed as non-sensical by A.J. Ayer and his positivist successors. I will leave it to another paper and, perhaps, even another scholar to pursue that theorization. For now, I am content that I understood in a much clearer way why I was disappointed in the political performance of a singer I am

drawn to and why, conversely, I can appreciate the continued rhetorical-argumentative talent of a political party whose ideology I find selfish and exclusionary. In one case, sentiment did not reinforce ideology or sculpt political identity, while in the other, it not only resonated with a political ideology but even gave it velocity and force in political arenas. Abduction and coduction may well provide superior foundations for ways of coming to grips with the political viability and rhetorical probity of sentimentalized appeals to collective identity and action.

NOTES

[i] That dialectic he captures (1988: 488) in this quotation from John Milton's *Areopagitica*: "He that apprehend and consider vice with all her baits and seeming pleasures, and yet abstain, and yet distinguish, and yet prefer that which is truly better, he is the true wayfaring Christian. I cannot praise a fugitive and cloister'd vertue, unexercis'd & unbreath'd, that never sallies out and sees her adversary, but slinks out of the race, where the immortall garland is to be run for, not without dust and heat... [T]hat which purifies us is triall, and triall is by what is contrary... [T]rue temperance [is that which can] see and know, and yet abstain" (1644/1959: 2:514-516).

REFERENCES

Ayer, A.J. (1936/1952). *Language, truth and logic*. New York: Dover Publications.

Behrens, J., & Yu, C.H. (1995). *Peircean logical system* [website]. http://seamonkey.-ed.asu.edu/~behrens/asu/reports/Peirce/Logic_of_EDA.html#abduction.

Booth, W.C. (1988). *The company we keep: An ethics of fiction*. Berkeley: University of California Press.

Bouissau, P. (Ed.). (1998). *Encyclopedia of semiotics*. New York: Oxford University Press.

Burke, K. (1964). *Perspectives by incongruity.* S. Hyman (Ed.), Bloomington: University of Indiana Press.

C-Span [TV channel]. (2000.) Broadcasts of the 2000 Republican and Democratic party national conventions.

Feliciano, J. (1999). *José Feliciano* [website]. http://www.josefeliciano.com.

Glaser, B.G., & Strauss, A.L. (1967). *The discovery of grounded theory: Strategies for qualitative research*. Chicago: Aldine.

Gronbeck, B.E. (2002). The status of sentimental arguments for public policies:

The love-ins at the 2000 national party conventions. In: G.T. Goodnight (Ed.), *Arguing communication and culture* (pp. 503-511), Washington, DC: National Communication Association.

Gronbeck, B.E. (2001). *The University of Iowa center for media studies and political culture* [website]. http://www.uiowa.edu/~policult.

Hart, R.P. (1999). *Seducing America: How television charms the modern voter*. 2nd ed. New York: Oxford University Press.

Hilpinen, R. (1992). *On Peirce's philosophical logic: propositions and their objects*. Transaction of the Charles S. Peirce Society 28, 467-488.

Milton, J. (1644/1959). Areopagitica. D.M. Wolfe (Ed.). In: E. Sirluck (Ed.), *Complete prose works* (pp. 480-570), New Haven, CT: Yale University Press.

Nussbaum, N.C. (1995). *Poetic justice: The literary imagination and public life*. Boston: Beacon Press.

Rescher, N. (1978). *Peirce's philosophy of science: Critical studies in his theory of induction and scientific method.* Notre Dame, IN: University of Notre Dame Press.

Schlesinger, A.M. Jr. (1991/1993). *The disuniting of America: Reflections on a multicultural society*. New York: W.W. Norton.

Smith, A. (1759/1976). *The theory of moral sentiments*. D.D. Raphael & A.L. MacFie (Ed.). Oxford: Clarendon Press.

Smith, M.W. (2002). *Michael W. Smith* [website]. http://www.michaelwsmith.com.

Staat, W. (1993). *On abduction, deduction, induction and the categories*. Transaction of the Charles S. Peirce Society 27, 225-237.

Appendix A: Lyrics for the Music from the 2000 National Political Conventions (C-Span, 2000; videos available on Gronbeck, 2001)

Melissa Etheridge Patriotic Montage
[SSB = Star-Spangled Banner, 1814; AB = America the Beautiful, 1913; and TL = This Land is Your Land, 1940]
[SSB] Oh say, can you see, by the dawn's early light,
What so proudly we hail'd at the twilight's last gleaming?
[AB] O beautiful for spacious skies,
For amber waves of grain,
For purple mountain majesties
Above the fruited plain!
[TL] As I was walking a ribbon of highway
I saw above me an endless skyway,

I saw below me that golden valley,
This land was made for you and me.
(Chorus) This land is your land, this land is my land
From California, to the New York Island,
From the redwood forest, to the gulf stream waters,
This land was made for you and me.
(Repeat) From the redwood forest, to the gulf stream waters,
This land was made for you and me.
[AB] America! America!
God shed his grace on thee
And crown thy good with brotherhood
From sea to shining sea!
(Repeat) And crown thy good with brotherhood
From sea to shining sea!
[SSB] O'er the land of the free and the home of the brave!

My Place in This World, Music Performed by Michael W. Smith [1991]
(First verse) The wind is moving,
But I am standing still
A life of pages
Waiting to be filled
A heart that's hopeful
A head that's full of dreams
But this becoming
Is harder than it seems
Feels like I'm
(Chorus) Looking for a reason
Roaming through the night to find
My place in this world
My place in this world
I need Your light to help me find
My place in this world
My place in this world
(Second verse) If there are millions
Down on their knees
Among the many
Can you still hear me

Hear me asking
Where do I belong
Is there a vision
That I can call my own
Show me I'm
(Chorus, extended) Looking for a reason
Roaming through the night to find
My place in this world
My place in this world
Looking for a reason
Roaming through the night to find
My place in this world
My place in this world
Not a lot to lean on
I need Your light to help me find
My place in this world
My place in this world
Looking for a reason
Roaming through the night to find
My place in this world
My place in this world

ISSA Proceedings 2002 – Designing Premises

1. Introduction.

The problem of premise adequacy has vexed argumentation theorists since Hamblin opened the issue in his pioneering work on *Fallacies* (1986/1970). Anyone trying to evaluate an argument that has been made must apply some standard to assess the goodness of the premises. Various informal logicians have proposed one or more of the following:

truth (Johnson, 2000), acceptance (or, roughly, belief; Johnson, 2000; Hamblin, in one reading), and acceptability (what is reasonable to believe, with variations; Govier, 1987; Johnson & Blair, 1994; Pinto, 1994).

Premise adequacy is not just a puzzle for evaluators after the fact, however; arguers as they practice also face the problem of securing starting points for their arguing. Each arguer presumably expects the arguments she deploys to do some work for her. To do that work, the arguments will need (among other things) to have adequate premises. Thus she too confronts the problem of figuring out what premises are up to standard, whatever that standard may be. Still, her task is somewhat different than that of the evaluator, due to the constraints of her immediate situation. The arguer is addressing her argument to others; she needs to make sure that her premises not only are adequate, but that the adequacy is conspicuous to them. And in securing such conspicuous adequacy, the arguer faces two difficulties.

First, the situations in which arguments are expected to work are characterized by open and sometimes deep disagreement. Under conditions of disagreement, it may occur that arguers will start with few shared understandings as to what premises count as adequate. And the arguers may have little motive to cooperate with each other to reach new understandings, whether by examining the truth or acceptability of proposed premises, by admitting that they are accepted, or by otherwise establishing them as adequate. They may, for example, refuse to openly express to their "dark-side commitments" (Walton & Krabbe, 1995). The arguer therefore may need to exert some (communicative) force to get her interlocutor to recognize the adequacy of her premises.

Second, the arguer often works to a tight deadline, since in practice not to complete an argument within a reasonable, often quite limited, time is effectively to not argue. Whatever work she needs to do to secure the adequacy of her premises, she needs to do quickly. She doesn't have time for infinite regresses where her premises are secured by further arguments, whose premises in turn need to be argued; she often won't have time even for one or two. To begin her argument, she needs to locate the unargued.

To achieve her purposes through arguing, the arguer must do something to overcome these difficulties – to invent (that is, create or discover) expeditiously the adequate premises she will need to proceed. Premise adequacy, in other words, is not just a problem in evaluation; it is a pragmatic problem as well. Or more specifically, a problem of normative pragmatics (van Eemeren, 1994;

Goodwin, forthcoming b; Jacobs, 1999): for as above I will take it for granted that premises must be of a certain quality in order to do their work.

In this paper, I examine a very few of the practical strategies arguers use to establish adequate starting points for their arguing. Following the main line of the rhetorical tradition, I take up case studies of premise design in two contexts: forensic (courtroom) and deliberative (public policy) arguing. In the next section, I turn to the norms and procedures of the Anglo-American jury trial generally, drawing examples from the 1995 criminal trial of O.J. Simpson for the murder of his ex-wife. In the third section, I examine premises in the 1991 U.S. Congressional debate over initiating hostilities in the Gulf War. As I have argued elsewhere, the strategies arguers adopt within such exemplary practices provide good evidence for the normative structure of arguing (Goodwin, 1999). Thus although these two case studies can not lead to a complete theory of premise design, they should expand our understanding of the ways arguers can so act as to create the adequate premises they need for their arguing to proceed.

A secondary purpose of this study is to continue to explore rather experimentally exactly what an account of the normative pragmatics of arguing might look like. In the final section I therefore conclude with some remarks about the difference between the normative-pragmatic and informal-logical approaches to premise adequacy.

2. Premise design in a forensic setting.
The contours of the jury trial are well known – throughout American culture at least – and in the following discussion I do not attempt to point to anything surprising. Rather, I hope to draw forth how some of these familiar practices serve to solve the pragmatic problem of premise adequacy.

What are adequate premises in a forensic situation? – what premises can advocates rely on when arguing to the jury, the jurors rely on when arguing with each other? The norm imposed on advocates' closing arguments is strict: "any representation of fact" made by an advocate "must be based solely upon the matters of fact of which evidence has already been introduced" (Chadbourn, 1976, §1806). The norm voiced to jurors is similar, and is commonly incorporated as one of the first instructions the judge gives them as they begin their deliberations. This excerpt from the Simpson trial is typical:
1. You have two duties to perform first, you must determine the facts from the evidence received in the trial and not from any other source … You must decide

all questions of fact in this case from the evidence received here in court in this trial and not from any other source. You must not make any independent investigation of the facts or the law, or consider or discuss facts as to which there has been no evidence. This means, for example, that you must not on your own visit the scene, conduct experiments or consult reference works or persons for additional information. You must not discuss this case with any other person except a fellow juror, and you must not discuss the case with a fellow juror until the case is submitted to you for your decision, and then only when all 12 jurors are present in the jury room. Evidence consists of the testimony of witnesses, writings, material objects, or anything presented to the senses and offered to prove the existence or non-existence of a fact ('Lectric Law Library, 1995).

At trial, clearly, only "the evidence" are adequate premises. What then is evidence? First and most obviously, to be evidence an item must be something "presented to the senses" of the participants in a trial – it must have been made evident to them. Indeed, the entire evidentiary process may be considered as a ritual for making items present and attended to; in the case of testimonial evidence, for example, a witness is ceremoniously called forth, seated in a conspicuous place, sworn in, and then speaks while everyone else remains silent. Second, to be evidence, an item must be made present *at the trial* – it must be ostended in the presence of all trial participants simultaneously. As the instructions stress, "evidence" must be "received here in court in this trial and not from any other source." No juror may use sense impressions gained by "any independent investigation, ... on your own." All discussion must take place "only when all 12 jurors are present in the jury room." Similar norms bind the presentation of items during the evidentiary process itself. The process must cease when even one juror is absent. If during their deliberations the jury finds it needs to examine the evidence again, they are not given the transcript (which only one could read at a time); instead, they are brought back into court and the testimony is read to them all simultaneously. Even the physical setting of the trial ordinarily emphasizes the fact that the evidence is being received in common; it is presented in the midst of a circle, with the advocates, judge and jury spread out along the periphery, able to observe both the evidence itself and also the other participants, observing the evidence.

These two conditions – ostension of an item, in the presence of all participants simultaneously – serve to create evidence – adequate premises – of a specific sort.

Through ostension, each trial participant can reasonably be expected to learn that the item exists, and something of what it is; the expectation is reasonable because learning through the senses is widely considered a reliable method for finding things out, and one available to all. Thus the participant learns that a knife has *this* appearance, or that a witness says *that*. Through ostension in the presence of all, moreover, each trial participant can reasonably be expected to learn that all other trial participants have so learned.

The evidentiary process thus serves to create not just knowledge but what has been called mutual knowledge, through a strategy dubbed the "physical copresence heuristic" (Clark & Marshall, 1978; note that the terms "knowledge" and "heuristic" may be problematic). Or to speak the language ordinary to arguing, the evidentiary process serves to create assumptions (Kauffeld, 1995). After the evidence is introduced, each participant is licensed to take it for granted; each participant is warranted in believing that no other participant will doubt or challenge the evidence. Thus in arguing a participant may properly assume that a witness said what she said, or that a knife is the size that it is. By introducing evidence, the participants have managed to invent premises adequate for their arguing.

An exception proves the rule. It would probably be impossible to rely only on the evidence in arguing, even after a nine month trial. Therefore the local norms of the jury trial allow a mechanism known as "judicial notice," through which trial participants are licensed (subject to judicial supervision) to use premises beyond the evidence. When is this proper? One leading commentator put it thus: "that a matter is judicially noticed means merely that it is taken as true without the offering of evidence by the party who should ordinarily have done so. This is because the court assumes that the matter is so notorious that it will not be disputed" (Chadbourn, 1976, § 2567). "Notorious" here suggests that the matter is conspicuously well recognized – not only is it well recognized, but it is well recognized as being such. Through judicial notice, trial participants are thus licensed to assume a premise in their arguing at the trial because they are already licensed to assume it in general.

Let me pause for two asides. First, I want to reply to any skeptical of the second condition for evidence. Is awareness of others' awareness really necessary? I suggest a thought experiment contrasting trial practice with teaching a class. In the latter case, teachers ordinarily ostend certain items – the course readings – to

each and every student. But in contrast to the trial, students are expected to learn about the readings individually, outside of each other's presence and the presence of the teacher. The result, we all know: teachers are *not* licensed to take the class readings for granted; we cannot *assume* them in our talk to our students.

Second, it is important to note what precisely the evidence licenses participants to assume as they argue. They can assume that the witness said what she said; they cannot assume that what she said is the case. Similarly, they can assume that the knife looks like this – it has something crusted on it; they cannot assume that it has blood on it. Participants can assume that the evidence is what it is; they cannot assume what the evidence *means*.

This limitation is in part overcome by a variety of other trial mechanism which serve to expand the range of what can be taken for granted, taken as undoubted – assumed – by the participants. One mechanism includes "exclusionary rules" that prohibit whole classes of items from being introduced as evidence in the first place because they are routinely subject to doubt. Most notable here are the rules which eliminate doubts about authenticity and accuracy by allowing only the original of an item to be presented at trial. The "best evidence rule," for example, prohibits copies of documents, recordings, photographs and the like from being introduced as evidence; the "hearsay rule" in parallel fashion bans testimony about what someone said outside of court. (Each of these rules is of course subject to numerous limitations and exceptions; I paint only with the broadest brush strokes here.) Another mechanism for licensing assumptions embraces the practices of adversariality, like cross-examination and opposing argument. These, by fully exposing possible doubts and objections, also serve to expose what is undoubted and unobjectionable. If the capacity, memory and credibility of a witness are unchallenged, for example, then not only that she said something, but what she said, can be assumed to be the case.

What I want to focus briefly on here, however, is a third mechanism, one built into the speech practices of the evidentiary process itself. Characteristic of testimony at the jury trial is what one legal scholar has called "the language of perception" (Burns, 1999, 53). Consider this commonplace example, taken from the first witness to testify at the Simpson trial. The witness was an emergency dispatcher who had received a call from the Simpson household several years before the trial. In sending the police to the scene, she had told them what she had heard in these, relatively ordinary, terms:

2. Female being beaten at location could be heard over the phone (Walraven, 2001, 1/31/95).

The same incident, by contrast, when presented at trial comes out like this:

3. Q: Okay. Okay. So the call came to you, right?

A: Right. It was an open line.

Q: Okay. Could you hear anything over the open line?

A: No. At the beginning, no.

Q: Okay. Did the line remain open?

A: Yes, it did.

Q: And while the line was opened, at any point in time could you hear anything?

A: Yes, I did.

Q: What did you hear?

A: At first I heard a female screaming and that is when I went back and changed my incident type from an unknown trouble to a screaming woman.

Q: Okay. And did you hear anything else?

A: Yes, I did.

Q: What did you hear?

A: I heard someone being hit.

Q: You heard a noise that you associated with someone being hit?

A: Yes …

Q: And the screams that you heard, you say that those screams were the screams of a woman?

A: It sounded like a female to me.

Q: It didn't sound like a man?

A: No (Walraven, 1991, 1/31/95).

In testimony-speak, a woman is not "beaten" but rather "screams," with "someone being hit;" and not even "hit," but with "a noise associated with someone being hit;" and not even a woman, but something that "sounded like a female." This transformation is in line with a general principle – formerly known as the "opinion rule" – favoring testimony as to sense perceptions over testimony with interpretations of those perceptions that commentators sometimes speak of as "inferential" (Strong, 1999, §11). Because of this principle and the speech practices associated with it (question/answer format, small-scale linkages from one item to the next – "and, anything else") a witness's testimony tends to be made in a form that retains at least some information relevant to the issues at

trial while at the same time eliminating a range of expectable doubts. Thus in this case, if the witness is found capable, of sound memory and credible (doubts it is hard to eliminate), trial participants will recognize that no other participant will wonder what "beaten" might mean, or how the witness knew that it was the woman being beaten and not doing the beating. They will be licensed to assume that the witness heard a female screaming and the sound of blows, and then make whatever argumentative use of these premises that they can.

In sum, we may see the evidentiary process of the common law trial as an engine for inventing assumptions. The items that are presented, in the customary form, to the participants in each other's presence, will allow trial participants to assume many things as adequate premises for their arguing.

3. Premise design in a deliberative setting.
We can open consideration of strategies for premise adequacy in deliberative settings by noting the obvious: The participants do not employ the strategy of evidence. The only things presented on the floor of Congress during the Gulf War debate are the speeches of the arguers themselves. Documents are indeed brought forward for inclusion in the *Congressional Record*; but that serves to ostend them to future readers, not present participants – an intriguing, but key, difference. Sources are indeed used, but only in quotation – something that in the trial setting would draw an immediate hearsay objection. And often assertions are advanced with no attribution at all.
But if not evidence, what? Deliberation is a sprawling practice, and in the following I attempt only the smallest inroads into it. I examine just two of the sources that the arguers actually name; since the two are rather different, we can try to see what they share that secures their adequacy as premises for the debate. The first is one of the many bits of expert testimony deployed as commonplaces. I've selected this particular one following a suggestion by Gerry Philipsen (1992, 133): because it becomes a focus for dispute, the participants have some incentive to be explicit in their talk about it.

When CIA Director William Webster had testified before a Congressional committee in early December, 1990, he had said things plausibly interpreted as indicating that the policy of economic sanctions against Iraq, initiated by the President soon after the invasion of Kuwait, was working. On January 10, 1991, a day before the main Congressional debate was to begin, Webster sent a letter putatively addressed to one Congressman but in fact distributed to all; in that

letter, he said things plausibly interpreted as indicating that the policy of economic sanctions against Iraq would not work to force Iraq out of Kuwait, and that military force was required.

One, the other, or both of these utterances is quoted or otherwise referred to in at least 72 speeches during the debate. Examination of this talk reveals that the opposing participants in the debate share a vocabulary for evaluating their worth as premises. Both sides refer to the source as "CIA Director, head, Judge" or "expert." Both sides also use the same range of terms to describe what Webster did: "say; letter; testify, testimony; state, statement; inform, information, detail, details; judgment, assess, assessment, estimate, analysis, conclude, conclusion."

This common vocabulary suggests that all participants in the debate agree in thinking that expert testimony can provide adequate premises for arguing. The participants begin to disagree, however, when considering whether Webster's utterances should qualify as such testimony. Proponents of sanctions are willing openly to challenge the adequacy of Webster's later, pro-force letter. For example:

4. Iraq's industry is crippled. I do not care what CIA Director Webster says now, politicizing his intelligence report as he does. The cardinal rule of intelligence is do not enunciate policy; just give facts. When he testified earlier he gave the facts. Yesterday, in his letter to Congressman Aspin, he gave the policy, politicizing our intelligence. And he ought to be ashamed of it (U.S. Congress, 1991, S329; hereinafter cited by page number only).

Proponents of military force appear to concede the seriousness of this charge by the vigor of their defense against it. Along these lines are their attempts to defend Webster personally, describing him as a man "whose reputation for honesty and forthrightness is impeccable" (S326), and insisting that it is his "job to evaluate whether sanctions are likely to work" (S324). They further attempt to bolster the soundness of what he said. Thus while both sides shared talk of "judgment, assessment, estimate" and so on, only these arguers go on to stress that in his letter Webster had given his "best judgment, best estimates" and "latest analysis" (S284, S230, S233), in a "very balanced" and "reliable" fashion (H122, H330). Adopting a different line of defense, other proponents of force try to downplay the seriousness of Webster's shift by describing what he had said as merely his "opinion" (H146, H217, S294), "belief" (H306, H479) or "view" (S211) – things more legitimately subject to change.

We might expect this situation to be symmetrical: that is, even as proponents of sanctions challenged the later, pro-force letter, proponents of force would challenge the earlier, pro-sanctions testimony. That expectation is not met. Proponents of military force never directly attack Webster's earlier testimony – they do not, for example, accuse him of at first pandering to Congress, and only later, bravely, speaking the his real expert opinion.

Why this asymmetry? The answer emerges in other asymmetrical aspects of the Congressional talk. Only the proponents of sanctions adopt a language of identification, one that stressed his ties with their opponents in the debate. Several describe Webster as "the President's own" CIA director (H360, S226), highlighting the closeness of the bond between him and the leader of the pro-military-force camp. One notes sardonically that his pro-sanctions testimony would probably get him fired (S106). And others suggest a similar point by including the testimony in a laundry list of Presidential pro-sanctions remarks (e.g., S303). In addition, only the proponents of sanctions adopt a language of responsibility, one which stresses the commitment Webster had made for the truth of his statements to those he had addressed. Some of arguers term his earlier testimony "counsel" and "advice" (H370), implying a higher degree of responsibility than the shared term "say" (see Kauffeld, 2000). Others use "tell" (S246, S281, S303), again suggesting responsibility for a message to an audience (Dirven et al, 1982). And in language that combines both identification and responsibility, one Congressman describes Webster in his pro-sanctions testimony as "argu[ing] to convince" (H242). Given these characterizations, the pro-force arguers should be unable to challenge Webster's testimony without essentially criticizing themselves. And the fact that these arguers do not make the challenge suggests that they concede this point.

Let me step back and summarize the results of these interchanges between the participants on the subject of Webster's statements. Both sides agree that expert testimony can serve as adequate premises for their arguing. Through the debate, however, it becomes clear that the reliability of Webster's later, pro-force letter is in question. The pro-sanction camp's direct challenge to the letter raises the issue of its adequacy, an issue the pro-force camp attempts to defend. Even if this defense is in the long run successful, the challenge means that the letter cannot stand as an adequate premise for the participants in this debate; it needs to be established by its own argument, relying on further premises (the adequacy of

which I will not explore here). By contrast, however, the pro-sanction side's characterization of Webster as having taken responsibility for his earlier testimony on behalf of the pro-force camp seems to be effectively conceded by that camp. The result is that Webster's pro-sanctions testimony is beyond criticism. The proponents of sanctions can't criticize it; they put it forward. The proponents of military force can't, either; they are responsible for it. Standing beyond criticism, Webster's pro-sanctions testimony thus serves as an adequate premise for the participants in this debate.

Turning now to the second source to be considered here, we find the same pattern emerging for a rather different sort of premise. At least as common as references to expert opinion in this Congressional debate are references to the opinions of the arguers' own constituents. Here is a typical instance, where the expert and the ordinary actually abut each other:

5. If sanctions fail to drive Iraq out of Kuwait, as I believe they will, then force will ultimately be needed to dislodge the aggressor from Kuwait … In fact, according to CIA Director William Webster, it has become clear that over the past 5 months, there has been " …. no evidence that sanctions would mandate a change in Saddam Hussein's behavior." … Finally, what impact will prolonged sanctions have on our own troops? In that regard, I would like to read portions of a letter from a constituent of mine from Naperville, IL, a major in the Marine reserves who has recently been called to active duty in Saudi Arabia. " … I am very alarmed at giving sanctions additional time to work" (H213).

It is somewhat difficult to elicit the force of such constituent's statements, since they are not much discussed by participants themselves. Indeed, have yet to locate a single instance where a constituent's statement becomes disputed, not through the roughly 900 pages of three-columned, small-printed transcript. This itself, however, may be taken as worthy of remark. One hypothesis might be that these statements are too trivial to attack. But then, why do the arguers deploy them so consistently? Assuming they have some force, then, we can guess why they are beyond criticism. The arguer can't criticize her constituent's statement, since it is *her* constituent. Her opponents can't either, given the strong Congressional norm of deference to each other's constituent service – the same norm that allows pork-barrel projects to go through unchallenged. And being beyond criticism, constituent statements serve as adequate premises for the participants in the debate.

It appears then that being beyond criticism is one standard for premise adequacy in at least this deliberative setting. What makes a premise beyond criticism appears to vary, suggesting that there are many norms that can force participants to withhold negative comment. In addition to the norms against self-contradiction and against interfering with other's constituents we saw invoked above, we might for example expect to find premises secured by deference to older or senior colleagues, or by the prohibition on racist, sexist and religiously intolerant talk in public. By inventing (finding or creating) premises that invoke such norms, arguers secure premises that are adequate for their tasks.

Let me close with two final notes. First, to make this strategy work arguers are going to need a ready supply of things beyond criticism. This might require, for example, a method for forcing those their opponents to make assertions that will then be used against them – a procedure that would do some of the same work as the evidentiary hearing at a jury trial. Further study of premise construction in deliberative settings will require attention to such mechanisms.

Second, I'll admit that the strategy of putting forward things beyond criticism does seem odd. I imagine objections: "But you can't really expect a random, unqualified constituent's statement to actually persuade anyone, can you?" Indeed, perhaps not. But instead of taking this as an objection to one of the strategies of premise adequacy native to this Congressional debate, we might take it as prod to reconsider our views about the work we expect arguments to do. These arguments, in a debate widely thought to be excellent, are unpersuasive. Perhaps then the purpose (or as some would say, the function) of these arguments is something other than persuasion (at least in the narrow sense in which arguing that p is an attempt to persuade that p); an issue I have opened elsewhere (e.g., Goodwin, 1999).

4. Conclusion.
How do these two strategies for inventing adequate premises fit with the various proposals for evaluating adequate premises, mentioned at the beginning of this paper? Not well. Although the forensic strategy of evidence appears to produce premises that are true, accepted and acceptable, all at the same time, the deliberative strategy of inventing things beyond criticism can produce premises that are none of the above. We can imagine a constituent's statement, for example, that is false and not accepted by any participant (being perhaps too strong for some and too weak for others); stretching a bit, we may be able to

imagine that it is unacceptable as well. In any case, the fact that such a statement is beyond criticism due to local social norms is unrelated to its truth, acceptance or acceptability.

One possible conclusion would be that the familiar informal-logical standards are therefore without merit and should be replaced by normative-pragmatic strategies such as those discussed above. This, I think, would be a disastrous move. Not only am I convinced that all current theoretical endeavors have something to contribute to an overall theory of argumentation, I also believe that in practice we need epistemic and indeed alethic criteria to act occasionally as counterweights to the social factors that were considered here. To say that something is "beyond criticism," for example, is not to say that criticism is impossible. It is possible to criticize what you yourself have said in the past; it's only that the breach of norms involved will impose significant costs on you for doing so. Still, you should be willing to endure those costs on occasion – in the name of truth, perhaps. There is also the fact that none of the constituent statements actually relied on in the Gulf War debate were egregiously unacceptable; the arguers may have been self-censoring, complying with both some version of the informal-logical standards and with the local social norms.

Rejecting the option of letting one set of standards trump the other, we are left with the task of specifying how the informal-logical and normative-pragmatic sets fit together in one theory of argumentation – a task that Blair and Hansen (2001) have called the integration problem. I want to contribute my mite to the eventual resolution of this problem by making explicit what there is to be integrated, at least for a theory of premise adequacy.

I have taken as my starting point arguing as an activity, and I have insisted even perhaps more than Ralph Johnson (2000) would like on the radically different handling premises require when considered as premises of implications or inferences, versus as premises of arguments. The question of premise adequacy in arguing is not a question about the relationship of a premise to the world, nor even about the relationship of a premise to the minds of the arguers. The question of premise adequacy *in arguing* is the question of how to make adequacy *conspicuous* to the arguers. For arguers first of all must achieve the common focus, "mutual knowledge" or "mutually manifest cognitive environment" (Sperber & Wilson, 1986; we don't have any well-established terminology for this) necessary for arguing, as for any communicative activity, to proceed. In the case

of premises, this means getting a premise out there in public for all to observe; since premises must serve as the unargued starting points of arguing, it also means getting it out there in a way that it won't be challenged. That is precisely what both evidence in the forensic setting and matters beyond criticism in the deliberative setting accomplish. So premise adequacy in arguing is a matter of the relationship of a premise not, again, to world or minds, but to the local ethical terrain (a phrase I think I'm borrowing from Fred Kauffeld, personal communication): to contours of the normative environment the arguers inhabit together.

This paper is not the only one moving towards such a conception of the activity of arguing. Our conference hosts, the Amsterdam school, have spoken of the inherent "externalization" and "socialization" of arguing, and have come up with a pragma-dialectical theory to show how this is done (van Eemeren & Grootendorst, 1983). Johnson (2000) has recognized that arguments must not only be good, but be manifestly so, and has come up with a pragmatic theory, although not one (I think) that he applies very thoroughly to the problem of premise adequacy. Tindale (1999) has adapted the idea of "shared cognitive environment" as a rhetorical approach to relevance, although again he doesn't completely carry the idea over to dealing with premises. I think even Hamblin (1970/1986) was struggling with this, in speaking of acceptance as something arguers do, publicly.

In this paper, I have adopted a complex of assumptions, problematics and methods which I believe is common in the Communication discipline, a complex which I have elsewhere named the "design" approach (Goodwin, forthcoming a, forthcoming b). I have started with the assumption that obtaining conspicuously adequate premises will likely be difficult in circumstances characterized by deep disagreement and limited time; I have taken seriously, perhaps more seriously than most, the troubles arguers face in forcing their premises into notice. Arguers must use craft and care to overcome these difficulties, in the main part by designing the discourse that goes along with and creates the necessary environment for their arguments. I have isolated two of the undoubtedly many practical strategies arguers have developed to accomplish this task, ones native to two of the many contexts in which arguing typically arises. For each, I've sketched what the arguers are doing and why it should work. By doing this I hope I have made more apparent the existence of a problem about the pragmatics of premise adequacy, and possibly further that a design approach can handle it.

REFERENCES

Blair, J.A. & Hansen, H.V. (2001, November). *Informal Logic and Future Research.* National Communication Association Convention, Atlanta, GA.

Burns, R.P. (1999) *A Theory of the Trial*. Princeton, NJ: Princeton University Press.

Chadbourn, J.H. (Ed.). (1976). *Wigmore on Evidence in Trials at Common Law*. Boston, MA: Little, Brown & Co.

Clark, H.H. & Marshall, C.R. (1978). Definite Reference and Mutual Knowledge. In A.K. Joshi, et al. (Eds.), *Elements of Discourse Understanding* (pp. 10-63). Cambridge: Cambridge University Press.

Dirven, R., et al. (1982). *The Scene of Linguistic Action and its Perspectivization by Speak, Talk, Say and Tell.* Amsterdam: John Benjamins Publishing Co.

Eemeren, F.H. van. (1994). The Study of Argumentation as Normative Pragmatics. In F.H. van Eemeren & R. Grootendorst (Eds.), *Studies in Pragma-Dialectics* (pp. 3-8). Amsterdam: Sic Sat.

Eemeren, F.H. van, & Grootendorst, R. (1983). *Speech acts in argumentative discussions*. Dordrecht: Foris.

Goodwin, J. (1999). Good Argumentation without Resolution. In F.H. van Eemeren et al. (Eds.), *Proceedings of the Fourth International Conference of the International Society for the Study of Argumentation* (pp. 255-257). Amsterdam: Sic Sat.

Goodwin, J. (forthcoming a). Designing issues. In F.H. van Eemeren et al. (Eds.), *Dialectic and rhetoric: The warp and woof of argumentation analysis.* Amsterdam: Kluwer.

Goodwin, J. (forthcoming b). One question, two answers. In: *Proceedings of the Ontario Society for the Study of Argumentation Conference*, 1999.

Govier, T. (1987). The Social Epistemology of Argument. In *Problems in Argument Analysis and Evaluation* (pp. 271-291) . Dordrecht: Foris Publications.

Hamblin, C.L. (1986). *Fallacies*. Newport News, VA: Vale Press. (Original work published 1970).

Jacobs, S. 1999. Argumentation as Normative Pragmatics. In F.H. van Eemeren, et al. (Eds.), *Proceedings of the Fourth International Conference of the International Society for the Study of Argumentation* (pp. 397-403). Amsterdam: Sic Sat.

Johnson, R.H. (2000). *Manifest Rationality: A Pragmatic Theory of Argument.* Mahwah, NJ: Lawrence Erlbaum.

Johnson, R.H. & Blair, J.A.. (1994). *Logical Self-Defense*. New York, NY: McGraw-

Hill.

Kauffeld, F. J. (1995). On the Difference between Assumptions and Presumptions. In S. Jackson (Ed.), *Argumentation and Values: Proceedings of the Ninth SCA/AFA Conference on Argumentation*, (pp. 509-515). Falls Church, VA: Speech Communication Association.

Kauffeld, F.J. (2000). Arguments on the Dialectical Tier as Structured by Proposing and Advising. In C.W. Tindale, H.V. Hansen & E. Sveda (Eds.), *Argumentation at the Century's Turn* [CD-ROM]. St. Catherines, ON: Ontario Society for the Study of Argumentation.

'Lectric Law Library (Ed.). (1995). *Judge Ito's 9/95 Jury Instructions In O.J.s' Criminal Case* [On-line]. Available: http://www.lectlaw.com/files/cas62.htm.

Philipsen, G. (1992). *Speaking Culturally: Explorations in Social Communication*. Albany, NY: SUNY Press.

Pinto, R.C. (1994). Logic Epistemology and Argument Appraisal. In R.H. Johnson & J.A. Blair, *New Essays in Informal Logic* (pp. 116-24). Windsor, ON: Informal Logic.

Sperber, D. & Wilson, D. (1986). *Relevance: Communication and Cognition*. Cambridge, MA: Harvard University Press.

Strong, J.W. (1999). *McCormick on Evidence* (5th ed.). St. Paul, MN: West Group.

U.S. Congress. (1991). *Congressional Record, 102nd Congress, 1st Session*, Nos. 2-8 (January 4-12).

Walton, D.W. & Krabbe, E.C.W. (1995). *Commitment in Dialogue: Basic Concepts of Interpersonal Reasoning*. Albany, NY: SUNY Press.

Walraven, J. (Ed.). (2001). *The Simpson Trial Transcripts* [On-line]. Available: http://simpson.walraven.org/.

ISSA Proceedings 2002 – The Dialogical And Logical Structure

Of A Strategy To Block Certain Vicious Infinite Regresses

2002
ISSA
INTERNATIONAL SOCIETY FOR THE STUDY OF ARGUMENTATION

I will examine two examples that illustrate a particular pattern of reasoning occasionally advanced to block a certain kind of vicious infinite regress, and use their mistakes and weaknesses to describe generally overlooked logical and dialogical properties in this kind of pattern. The reasoning can be summarized in five stages:

a. A proponent asserts that an entity y has a relation R to $x1$: $yRx1$. The entity $x1$ usually has an important role for the proponent, e.g. it can stand for a divine being, or an explanation.

b. An opponent argues from $yRx1$ that there follows an infinite regress: $x1R\ x2R\ x3R\ x4$…, and

c. then shows that the regress is vicious.

d. The proponent responds by claiming that $x1$ has a certain property that blocks the regress at $x1$.

e. The opponent retorts by showing that y also has that property, and consequently, just as $\sim(x1Rx2)$, then $\sim(yRx1)$: $x1$ is thus rendered unnecessary, superfluous, with respect to y.

1. Hume

I will begin with an example from Hume because, unlike most arguments of this type, it explicitly includes most of the stages of the general pattern of reasoning that I have just summarized. His goal in Part IV of *Dialogues Concerning Natural Religion* is to show "that there is no ground to suppose a plan of the world to be formed in the divine mind consisting of distinct ideas, differently arranged, in the same manner as an architect forms in his head the plan of a house which he intends to execute" (Hume, 1948, 33). So stage (a), the position to be criticized, is the relational statement that the physical world is created by a divine mind: $wCd1$.

At stage (b) Hume wants to show that given this relational statement, the divine cause must itself also have a divine cause, and so on for each divine cause: $d1Cd2Cd3Cd4$…. His general procedure is to argue that the material world and the divine cause are similar in the relevant respects, and thus that a divine cause

also requires a distinct divine cause, just as the material world requires one. An infinite regress logically follows if and only if those similarities are established, and all subsequent divine causes are also similar in the same relevant respects.

Hume first examines the material and mental worlds from the points of view of *a priori* reason, and tacitly assumes that the material world is to a divine mind just as the material world is to a mental world:

[A] mental world or universe of ideas requires a cause as much as does a material world or universe of objects, and if similar in its arrangement, must require a similar cause. For […] in an abstract view, they are entirely alike; and no difficulty attends the one supposition which is not common to both of them. (Hume, 1948, 33)

Secondly, he looks at the material and mental worlds from the perspective of experience. Here the analogical assumption is explicit: "We have specimens in miniature of both of them. Our own mind resembles the one [i.e. the ideal/divine world]; a vegetable or animal body the other [i.e. the material world]" (Hume, 1948, 33). However the focus of the argument is on the resemblances between the mental and physical worlds, not between the required resemblances between the physical and the divine worlds:

Nothing seems more delicate, with regard to its causes than thought; and as these causes never operate in two persons after the same manner, so we never find two persons who think exactly alike. Nor indeed does the same person think exactly alike at any two different periods of time. [For] [a] difference of age, of the disposition of his body, of weather, of food, of company, of books, of passions – any of these particulars, or other more minute, are sufficient to alter the curious machinery of thought and communicate to it very different movements and operations. (Hume, 1948, 33)

Hume then contrasts this to the physical realm:

As far as we can judge, vegetable and animal bodies are not more delicate in their motions, nor depend upon greater variety or more curious adjustment of springs and principles. [He then concludes with the rhetorical question:] Have we not the same reason to trace the ideal world into another ideal world or new intelligible principle? (Hume, 1948, 33-34)

This is certainly not a successful derivation of the intended regress. He focuses his attention mainly on some vague causal similarities between physical and

mental worlds, and not on relevant similarities between the physical and divine worlds. The analogy is very weak because even if we grant that there are mental causes just as there are physical causes, the mind is not as obviously immaterial with respect to vegetable or animal bodies as a divine cause is supposed to be with respect to the material world. So what is true of the mental and physical worlds is not clearly true of the divine and material worlds. Hume has not established that a divine cause of the material world requires a distinct divine cause, just as the material world requires one.

We have examined stage (b) of the extended argument, which consists of the attempt to derive an infinite regress. At stage (c), Hume presents two arguments to establish that it is vicious. First, "When you go one step beyond the mundane system [i.e. the material world] you only excite an inquisitive humour which it is impossible ever to satisfy" (Hume, 1948, 34).

There are a number of problems with this terse argument. First, he does not show that it is impossible to satisfy the "inquisitive humour". Secondly, even if he did, it is not clear why this psychological consequence would constitute an unacceptable consequence of the infinite regress. Thirdly, if instead of such a psychological problem Hume is in fact saying that the consequence of the regress is an unsolvable problem, then more evidence is required to show that there is a problem and that it is unsolvable. For the question "What causes divine cause$n$?" is always correctly answered by "divine cause$n+1$", and so at least one kind of "inquisitive humour" would be satisfied at each step of the intended regress.

In the second argument for the viciousness of the regress Hume questions the benefit or advantage of the relation, *wCd1*, which is thought to lead to the regress: "And if it [i.e. the material world] requires a cause in both, what do we gain by your system, in tracing the universe of objects into a similar universe of ideas?" (Hume, 1948, 34). Perhaps Occam's Razor is implicitly at work here, for even if we just consider the divine cause, without any reference to the regress that is supposed to be entailed, his question suggests that he sees the divine cause as an unnecessary multiplication of entities. However, the absence of any gain does not entail that the regress is vicious, because some (benign superfluous) regresses also fail to provide any benefit or advantage, but they are not vicious.

Stage (d) is a response to the charge that an infinite vicious regress follows from

the claim that the physical world is caused by a divine being, *wCd1*. The response consists of denying that an infinite regress extends from the divine cause on the grounds that the a Supreme Being falls into order of itself and by its own nature, and thus does not require a cause.

Stage (e) is a criticism to that response. Hume raises the questions, "if we stop [at the divine cause] and go no farther, why go so far? Why not stop at the material world?" (Hume, 1948, 34). He considers a reason for stopping at the divine world, and then attempts to show that the same reason also supports blocking the regress at the material world, thereby arguing that a divine cause is unnecessary, superfluous:

To say that the different ideas which compose the reason of the Supreme Being fall into order of themselves and by their own nature is really to talk without any precise meaning. If it has meaning, I would fain know why it is not as good sense to say that the parts of the material world fall into order of themselves and by their own nature. Can the one opinion be intelligible, while the other is not so? (Hume, 1948, 34)

Hume raises a good question, however, the fact that it is intelligible or conceivable for both the physical and divine worlds to "fall into order of themselves and by their own nature" does not show that the physical world in fact has such an order by its own nature.
He then provides some evidence that parts of the material world also "fall into order of themselves by their own nature and without any *known* cause. […] as in all instances of generation and vegetation where the accurate analysis of the cause exceeds all human comprehension" (Hume, 1948, 34). The problem here is that if we do not know their causes, then we have insufficient reason to infer that the order within the physical world results from its *own* nature. Secondly, even if a few parts of the physical world did fall into order by their own nature, it would not follow that the physical world *in its entirety* similarly falls into order by its own nature.
Subsequently, Hume supports the claim, expressed in the rhetorical question, "Why, then, should we think that order is more essential to one than the other?" (Hume, 1948, 34). For "[w]e have also experience of particular systems of thought and of matter which have no order; of the first in madness, of the second in corruption" (Hume, 1948, 34). Even if these were genuine cases illustrating the lack of order in both the mental and physical worlds, it would not be sufficient to

show that order is not more essential to one world than the other.

Next, Hume entertains a possible response from the proponent of the divine cause, whom he calls "anthropomorhites":

In like manner, when it is asked, what cause produces order in the ideas of the Supreme Being, can any other reason be assigned by you, anthropomorphites, than that it is a *rational* faculty, and that such is the nature of the Deity? But why a similar answer will not be equally satisfactory in accounting for the order of the world, without having recourse to any such intelligent creator as you insist on, may be difficult to determine. It is only to say that *such* is the nature of material objects, and that they are all originally possessed of a *faculty* of order and proportion. These are only more learned and elaborate ways of confessing our ignorance; nor has the one hypothesis any real advantage above the other, except in its greater conformity to vulgar prejudices. (Hume, 1948, 35)

There are a number of problems in this final stage of the extended argument. First, there seems to be an illegitimate shift of the burden of proof. For Hume seems to be asking the proponents of the divine cause to show that the same reasons for blocking the regress at the first divine cause do not also apply to the material world, but that burden falls rather onto Hume himself because it is only he who has the goal of showing that the divine cause is not necessary.

Secondly, Hume limits the possible response from the proponents of the divine cause to a single answer: rational faculty. Hume does raise important doubts about their attempt to block the regress, but this does *not* entail that there are no better answers that would succeed in blocking the regress at the divine cause *without* also eliminating the claim that the material world is caused by a divine being. (Of course the burden would then fall onto the proponents of the divine cause to present better alternatives.)

Thirdly, and more important, Hume fails to identify precisely the relevant respects in which the material and divine worlds would have to be similar in order to show that the physical world is not caused by a divine being. This is partly understandable because, forthly, *a priori* and experiential reasons both fail to perceive differences between the material and divine worlds: each kind of reason is applied "beyond her sphere". Though Hume explicitly acknowledges this only with respect to experiential reason, the *comparison* of *both* worlds is beyond the scope of either *a priori* or experiential reasons.

2. Miller

The next example, from Barry Miller (1999), further illustrates the recurring problems with respect to the derivation of a regress, the proof that it is vicious, and the attempt to block the entailment of a regress.

Miller's argument makes use of Plantiga's notion of haecceity. Plantinga understands it be an individual essence, which in his terminology means that it is both a necessary property for something to be an individual, and a property that no other individual could possess, and so it is not a qualitative property. A haecceity is said to exist and to be conceivable before ever being exemplified in any individual. On this view, therefore, an individual essence of Socrates would both exist and be conceivable before being exemplified in Socrates. And if that individual essence could be conceived of before Socrates existed, then that would be reason enough for saying that Socrates himself was conceivable before he existed. (Miller, 1999, 19). Miller's goal in his article is to argue that no concrete individual could have been referred to before it existed, and consequently, that no concrete individual could have been conceived of before it existed. The infinite regress is one of his objections against Plantinga's haecceitism.

Let us suppose that haecceities *H1* and *H2* have been exemplified in individuals *O1* and *O2*. One role of *H1* is to differentiate *O1* from *O2* and from all other individuals; *mutatis mutandis,* the same can be said for the role of *H2*. However, since *H1* differs from *H2*, we are now entitled to ask just what it is that differentiates them. Being themselves nonqualitative, their ultimate differentiator could obviously not be a qualitative one unless the Identity of Indiscernibles were true, which it isn't. So what could their nonqualitative differentiator be? Since haecceities are nonqualitative differentiators, it might seem natural to appeal to haecceities of haecceities (second-level haecceities) as providing the required difference. Then, of course, third-level haecceities would be needed to differentiate the second-level ones, and so on *ad infinitum*. A more attractive alternative would be to block off the infinite regress by treating the individuation of haecceities as primitive, meaning thereby that they would differ from each other not in virtue of anything else (for example, a second-level) but simply in virtue of their being the kind of entity that they are.

The problem with allowing haecceities to be self-differentiating is that it is tantamount to admitting that they are entirely superfluous. Part of their *raison d'être* is to differentiate one individual from another. If, however, in order to account for the difference between individuals, it were acceptable to say that

haecceities are themselves self-differentiating, it should be equally acceptable to say that individuals are themselves self-differentiating, thus eliminating the need for haecceities at all. Individuals would be primitive, differing from each other not in virtue of any haecceities but simply in virtue of their being individuals. (Miller, 1999, 24-25)

The intended final conclusion is that haecceities have no role to fulfill: they are unnecessary, superfluous.

The first stage begins with the relational statement that object *O1* is differentiated from all other entities by haecceities *H1: oDh1.*

At the second stage Miller attempts to derive an infinite regress from that relational statement. He tries to show, in the first paragraph of the above quotation, that haecceities cannot be differentiated by qualitative properties: "Being themselves nonqualitative, their ultimate differentiator could obviously not be a qualitative one unless the Identity of Indiscernibles were true, which it isn't". The argument is deductively valid: *if* nonqualitative entities are differentiated by qualitative differentiators, *then* the Identity of Indiscernibles is true, which it isn't. However, the truth of the conditional statement is questionable. For it is not clear which version of the identity of indiscernibles he considers to be false. But even if this argument were sound, it would only show that *H1* and *H2* are not differentiated by qualitative properties. In order to prove that they are in fact differentiated by haecceities, Miller has to assume that if something functions as a differentiatior but is not qualitative, then it is a differntiating haecceities. In other words, he must assume that there is no other kind nonqualitative differentiator. Not only does he not establish this assumption, but given his goal to show that there is a vicious infinite regress of haecceities in order to show that haecceities are superfluous, this reasoning seems question-begging.

It is perhaps because of this weakness that Miller hedges his conclusion in the following argument: "Since haecceities are nonqualitative differentiators, it *might seem* natural to appeal to haecceities of haecceities" (my italics). Since he can only conclude that there *might* be haecceities of haecceities, no infinite regress of successive levels of haecceities is actually entailed.

At the third stage of Miller's extended argument a further difficulty arises: even if there were an infinite regress, it is not shown to be vicious. For if there were an infinite regress, *h1Dh2Dh3Dh4Dh4*..., each haecceity at level*n* would in fact be

differentiated at level *n+1*, and no reason is advanced to show that the haeccieties at each level is somehow problematic. The reason he advances in the above quotation for avoiding the regress seems to be aesthetic: "A more *attractive* alternative would be to block off the infinite regress" (my italics). But this is certainly inadequate to show that an infinite regress is vicious. Though we are not even told why it would be more attractive to block the regress, perhaps a version of Occam's Razor is being tacitly used here, for there would seem to be an unnecessary multiplication of entities.

In order to evaluate the forth and fifth stages of the argument, let us assume for the sake of argument that there is a vicious infinite regress that one would naturally want to block it. His strategy is to identify reasons supporting the conclusion that *H1* and *H2* do not require to be differentiated by further haecceities, and then showing that those same reasons also support the conclusion that *O1* and *O2* similarly do not need to be differentiated by *H1* and *H2*, thereby rendering *H1* and *H2* superfluous with respect to their purported differentiating role. The major problem with his argument is that he considers *only one* way of stopping the regress at *H1* and *H2*: "by treating the individuation of haecceities as primitive, meaning thereby that they would differ from each other not in virtue of anything else (for example, a second-level) but simply in virtue of their being the kind of entity that they are". Miller would also have to show that "treating the individuation of haecceities as primitive" is the *only* way for the haeccieties to differentiate themselves. For if there are other reasons why haecceities differentiate themselves, it is possible that those reasons do not apply to objects *O1* and *O2*, and thus that *H1* and *H2* are in fact necessary to differentiate *O1* and *O2*. However, he does not establish that this is the only way for the haeccieties to differentiate themselves.

Just as with Hume's argument, there is a failure to derive an infinite regress, to show that the regress would be vicious if it were entailed, and to halt the regress in a way that eliminates what seems to begin the infinite regress.

3. The general form of the argument

The examination of the above examples can help us to identify the general form of this type of argument. We can better grasp the general structure of the argument, and avoid mistakenly imputing inconsistency to the reasoning by seeing the development of the extended argument as an exchange between a protagonist and an antagonist.

STAGE 1: the relational statement

Protagonist:

1. There is an object *a*.

2. There is a property (or properties) *x* in *a* that is sufficient for *a* to have the relation *R* to *b1*: a*Rb1*.

STAGE 2: the derivation of a regress

Antagonist:

3. *b1* has *x*.

4. (*Usually overlooked*) There is no property (or group of properties) in *b1* that prevent *x* in *b1* from continuing to be sufficient for *b1* to have relation *R* to object (usually of the same kind) *b2*. In other words, there is no significant difference between *b1* and *a*, that prevents *x* in *b1* from remaining sufficient for *b1R b2*.

5. (*Usually overlooked,* even though it is a necessary condition when dealing with an infinite regress constructed from a binary relation.) All possible loops along the regress are blocked: no term in the regress can recur.

6. Each entity that will be successively ordered by *R* satisfies conditions (3) and (4).

7. There are infinitely many *b* entities that can be ordered by *R.*

8. There follows from (1)-(7) the infinite regress: *b1Rb2Rb3Rb4*... .

STAGE 3: the infinite regress is vicious

Antagonist:

It is very important to establish that the infinite regress is vicious. For from that viciousness it follows that *x* is not sufficient for *a* to have relation R to *b1: ~(aRb1)*, and so *b1* is superfluous with respect to its relation to *a*. It is because of these consequences of the viciousness of the regress that the protagonist is logically compelled to advance reasons to block the regress at *b1*. If the regress is not vicious, this consequence does not arise, and consequently, there is no need to block the regress. Despite the importance of establishing the viciousness of this infinite regress, philosophers (e.g., Miller) typically fail to do so, or fail to do so convincingly (e.g., Hume), or they just assume that it is vicious.

STAGE 4: the attempt to block the regress at *b1*

Protagonist:

Since the regress is vicious, the protagonist must advance reasons to justify ending the regress at either *b1* or at some later term along the regress.

9. There is a property *y* in *b1*, or at some later term along the regress, that is

sufficient to block the regress at *b1*, or at that later term along the regress.

STAGE 5: the attempt to block the regress at a term earlier than *b1*, and thus to render *b1* superfluous
Antagonist:
10. The first term a also has *y*.
11. (*Usually overlooked*) There is no property in a that prevents *y* in a from being sufficient to block a from relating to *b1*. This is a crucial premise that was not established in the two examples. It is often here that these arguments fail when the two terms of the relational statement, from which it is argued that an infinite regress follows, are different. For from the mere fact that they are different (e.g., a material world and a Divine cause; an object and a haecceity), it follows that it is possible that the reason that prevents *b1* from relating to *b2* fails to prevent a from relating to *b1*, and thus ultimately fails to show that *b1* is superfluous with respect to its relation to *a*. Such a possibility must be excluded if one is to prove that ~*(aRb1)*, and thus prove that *b1* is superfluous.

This completes my description of the general form of the extended argument. It is important to see it as a series of exchanges between a protagonist and an antagonist. For if we fail to see such dialogical structure, we can be disposed to impute the following contradiction to the argument: *a* has the property *x* that is sufficient for *aRb1*, and a has the property *y* that is sufficient for ~*(aRb1)*. This would lead one to mistakenly judge the reasoning to be unsound.

In this paper I have examined two arguments in order to identify the general logical and dialogical form of a particular way of blocking certain vicious infinite regresses. The recurring weaknesses and mistakes in the two arguments have helped me to identify some of the problem areas of this kind of argument. The two examples further illustrated the common practice of leaving implicit many important premises and inferences in infinite regress arguments.

REFERENCES
Hume, David. (1948) *Dialogues Concerning Natural Religion,* New York: Hafner Press.
Miller, Barry (1999) Future Individuals and Haecceitism. *Review of Metaphysics 45*, 3-28.

ISSA Proceedings 2002 – The "Argument Of Continuity"

1. Introduction

Thirteen years after the revolution in the GDR and twelve years after the unification of the two Germanies, a gap still exists between East and West. One reason for this gap may be the dominance of a formerly Western discourse that has been transformed into an All-German public discourse. This overtaking of the eastern discourse by the West becomes apparent and especially interesting where the history of the two German states and its representation is concerned. Explaining the history of the GDR through a predominantely Western discourse leaves the citizens in East Germany in a difficult and ambivalent position: they may have to conclude that what they had lived by was false, and are thus lead to dissociate themselves from their own believes. Alternatively, they can take an ironic perspective by recognizing that the Western discourse functions the same way the Eastern did, and that both just tell a story from a certain standpoint; hence, that none of the stories represent the "real past".

One of the most evident examples for this clash of discourses is the employment and transformation of what could be called the "argument of continuity", the analogy both German states established between the other state and Nazi Germany. The "other Germany" was displayed as the successor of Nazi Germany. This analogy accomplished two tasks: it discredited the other Germany and its political system, and it fostered identification with the own state.

This paper takes a first step at analyzing the development and the effect of the Nazi-analogy in East and West Germany, with a special focus on its use since the unification. First, I will propose a view of this analogy in terms of an "argument of continuity" that functioned as a powerful tool in West as well as in East Germany, at the example of the *Braunbuch*. I will then describe the employment and transformation of this argument in contemporary public discourse at the example

of the exhibition in the "Zeitgeschichtliches Forum" ("Forum of contemporary history"). By analyzing the use of the "argument of continuity", as employed in the exhibition, through the lens of Rorty's concepts of irony and solidarity, I will suggest that the contemporary Western employment of the "argument of continuity" offers an insight into the function of contemporary discourse in East and West Germany. The question this papers asks is, how the discourse about this continuity is represented and altered in contemporary public discourse. I will argue, that the clash of discourses encountered by the people in East Germany may foster an ironic perspective on public discourse – an ironic perspective that might strengthen as well as weaken democracy in Germany.

2. The "argument of continuity"

Prior to 1990, setting the other German state in analogy to Nazi-Germany functioned as a central argument for the development of a West German and East German identity respectively. After 1945 most Germans simply wanted to move on without confronting the past; the members, supporters and high-rank officials of the National Socialists seemed to have vanished. The question where these Nazis went, was frequently answered by each German state with "to the other German state". This answer served a double purpose: First, it allowed to build an own identity in clear demarcation from the other German state. Second, it exempted the citizens of both Germanies from the necessity to confront their own past of the last 12 years, as the own state was solely inhabited by the "good" Germans.

Examplary of this "argument of continuity" is the *Braunbuch* (2002), a book edited in 1965 in the GDR by the Nationalrat der "Nationalen Front des Demokratischen Deutschland" (The National Council of the National Front of the Democratic Germany), and its West German counterpart by Kappelt (1981). The former book consists of lists of people who were high-rank officials in Germany between 1933 and 1945 and continued to be in responsible positions in the FRG, or were at least not questioned about their past after 1945. The latter presents a list of people who were not necessarily in higher positions during the time of the Nazi-regime but were members of the NSDAP and pursued a political carreer in the GDR.

The *Braunbuch* edited in the GDR establishes a tight link between Nazi Germany and the FRG by demanding that "auch in Westdeutschland muß die Befreiung vom Faschismus und Militarismus, die am 8. Mai 1945 eingeleitet, aber dort

wieder rückgängig gemacht wurde, endlich vollendet werden." (Podewin 2002, 12; "in West Germany, too, the liberation from facism and militarism, induced on May 8th 1945 but then taken back, finally has to be completed"). Similarly the publication *Die Wahrheit über Oberländer (The truth about Oberländer)*, which appeared in the GDR in 1960 and aimed at proving that the West German minister Theodor Oberländer had been a leading figure of the Nazi-Regime, was heavily founded on the argument that the West German state was basically the Nazi-state in disguise. This analogy was established subtely as well as explicitly. "Adenauer und die deutschen Militaristen decken Faschisten wie Oberländer, weil sie in ihr aggressives politisches Konzept passen. (...) Ist es ein Wunder, daß in Westdeutschland antisemitische Sudeleien wieder an der Tagesordnung sind, daß Synagogen-Schänder und andere Tausendjährige wieder Oberwasser haben, wenn Rassentheoretiker und Massenmörder jüdischer Menschen wie Oberländer und Globke in die höchsten Staatsämter aufsteigen können?" (4, "Adenauer and the other German militarists cover up for fascists like Oberländer, because these fascists fit into their aggressive political concept. ... No wonder, that once again antisemitist scibblings are on the agenda, that synagog desectraters and the other 'Millennials' have the upper hand again, when race-theorists and mass murderer of Jewish people like Oberländer and Globke can achieve highest offices."). In formulations like "Hitler as well as Adenauer ..." (see 175 & 182) with respect to Oberländer and his position and political influence in Nazi Germany and West Germany the analogy is made even more explicit. At one place the editors of *The truth about Oberländer* depict Adenauer as going even further than Hitler: "Was Oberländer unter Hitler noch nicht gelang, ermöglicht ihm der Adenauer-Staat: er wurde Minister." (171 "What Oberländer did not achieve under Hitler, is made possible for him in the Adenauer-state: he became Secretary of State."). Also referring to West Germany as the "Adenauer-state", in clear analogy to the common term of the Hitler-state oder Hitler-Germany, shows the tight link the editors wished to establish between Nazi Germany and West Germany.

In 1981 a West German version of the Braunbuch appeared, the *Braunbuch DDR* by Kappelt, accusing the GDR of being itself a state in continuity of the Nazi-regime. This tight link between Nazi Germany and the GDR is explicitly established in the foreword by von Habsburg who refers to Honecker and Breschnew as "zumindest genauso totalitäre Gewaltherrscher wie es der Führer des Tausendjährigen Reiches war" (9; "at least as totalitarian in their tyranny as the leader of the *Tausendjähriges Reich*"). Not only is the GDR depicted as a state

in continuity of Nazi Germany, but West Germany is also presented as the better state, thereby showing the role the argument of continuity played for the indentity-building process in the FRG. "Ohne politisches Mitläufertum könnte selbst eine Diktatur auf Dauer nicht existieren. Dies hat Gültigkeit für den Nationalsozialismus wie den Sozialismus in der DDR. 1945 zogen viele Deutsche im Westen die Konsequenz aus dem Scheitern der nationalsozialistischen Herrschaft und verschrieben sich freiheitlichen Idealen. Die Gewaltpolitik in Deutschland fand jedoch in der DDR durch Kommunisten die jahrzehntelange Fortsetzung." (Kappelt 1981, 11; "Even a dictatorship could not exist without political opportunism. This is as true for the National Socialism as it is for the Socialism of the GDR. In 1945 many Germans in the West drew the conclusions from the failure of National Socialism and subscribed to liberal ideals. But in the GDR the tyranny in Germany had its continuation through the communists for decades.").

However, the *Braunbuch DDR* by Kappelt differs in an important feature from the *Braunbuch* edited in the GDR. While the former is written by an author who is not in office, the latter is edited by a committee that was closely bound to the government and thus expresses not one among many opinions but what was meant to be the ruling public opinion. In both cases, it is obvious that the close connection between the other German state and Nazi Germany was employed in both parts of Germany.

In this paper I refer with the term "argument of continuity" to this argumentative practice of each German state to portray the other Germany as being the direct successor of Nazi Germany. This argument sets the given state in analogy to Nazi Germany and thereby projects fascist structures on it.

3. The "argument of continuity" as analogy

The "argument of continuity", depicting the other German state as holding on to the political system of the Nazi-regime, can be thought of as functioning as a powerful tool in the discourse between the two Germanies in the postwar period and throughout the Cold War. The strength of the argument can be linked to its special character as an analogy consisting of only three determinants.

The common definition of analogy as argument scheme is that it is used to conclude something unknow from something known (see Hoenen 1992, 498). Thus, an analogy consists of four parts: A is to B as C is to D, with A and C belonging to different areas or spheres. Given this definition, the argument of

continuity does not constitute an analogy. The argument of continuity formulated from the West German perspective reads as follows:

The GDR is to democracy/justice/liberty as the Nazi-regime was to democracy/justice/liberty.

Hence, it consists of only three distinguishable parts. However, Perelman and Olbrechts-Tyteca (1969) argue, that an analogy may as well contain less then four distinct terms. "Although the typical analogy comprises four terms, an analogy will quite often have only three terms. One of the three will appear twice in the scheme, which then will have the form: B is to A as C is to B." (375). The argument of continuity is not only restricted to three parts, it also does not just refer to three different *terms* but to political and social *systems*, thereby offering a broad range of associations and implications. Thereby the argument of continuity represents what Perelman & Olbrechts-Tyteca label rich analogy. "Whenever we say that every analogy involves a relation among four terms, we are, of course, giving a schematized picture of things. In fact, each term may correspond to a complex situation, and such a situation is precisely what makes a *rich analogy*." (375, emphasis by the authors). The argument of continuity can be treated as an analogy, an argument scheme that is fundamentally epistmological in function.

One question that arises is, in how far the different terms in the given example really belong to different spheres, a criterium that Perelman & Olbrechts-Tyteca (1969) regard as "essential for the existence of an analogy" (375). Does the GDR (or FRG respectively) belong to a different sphere than Nazi Germany? On the one side, they certainly do not, as both stand for different political systems and national entities. A closer look at the different forms of analogy and those argument schemes that function similarly to analogies may be helpful. Kienpointner (1992, 384) distinguishes argumentation by analogy from argumentation by example. An analogy will refer in most cases to a single instance and draw themes from different spheres, whereas argumentation by example refers to a common sphere and points further than the single instance. In addition to argumentation by analogy and argumentation by example, Kienpointner introduces argument by comparison (384) as a third closely related scheme, although he admits that the distinction between the three schemes may not always be clearly applicable. In terms of Kienpointners classification the given example may represent an argument by comparison.

On the other side, the argument of continuity gains it strength from the fact, that the terror of Nazi Germany and the character of the fascist regime *do* belong to different spheres than the post-war Germanies, as the crimes committed by this state are incomparable. Thus, it can be argued, that the argument of continuity basically functions as a form of analogical argument – an argument structure that is at the basis of historical arguments and serves epistemological functions. As Perelman & Olbrechts-Tyteca (1969) put it: "Analogies are important in invention and argumentation fundamentally because they facilitate the development and extension of thought" (385). The argument of continuity viewed as an analogical argument structure suggests that, especially because it functions as a structure within a historical argument, this argument has the capacity to work as a very powerful means in public discourse.

4. The exhibition in the "Zeitgeschichtliches Forum"

The permanent exhibition in the "Zeitgeschichtliches Forum" opened on October 9th 1999 in Leipzig, 10 years after one of the largest demonstrations against the totalitarian regime of the SED took place in Leipzig. It shows the development of what was to become the GDR in 1949 from its beginning in 1945 to the peaceful revolution in 1989. The exhibition thereby plays the role of the eastern sibling of the "Haus der Geschichte" ("house of history") in Bonn, which tells the story of the FRG.

Being raised in the West but having lived in the East for several years, I considered this exhibition to be a good opportunity to learn about the state I never really got to know, but with whose former citizens I lived. I found the exhibition insightful, although somewhat black and white in its description about the beginning years of the GDR – I left with the impression of having learned a lot; I thought I understood East Germany much better now.

In several personal discussions about the exhibition with people who grew up in the GDR it became apparent, however, that they were very sceptical about the way the exhibition presents the history of the GDR. Their scepticism was grounded in the fact that they knew the arguments the "Zeitgeschichtliches Forum" puts forward in oder to establish the continuity between the GDR and Nazi Germany very well – but from the "other side", presented against the FRG. Thus, the argumentative structure, appropriated by the exhibition in order to tell the story of the GDR and to show the weaknesses of the system, is in part the same as the one they had grown up with: just that the latter was directed against

the FRG and not the GDR. Hence, for those "learned GDR-citizens" the exhibition represented a capturing of an East German by a West German discourse.

This overtaking becomes especially apparent in the exhibition, where the self-concept of the GDR as a democratic and antifascist state is concerned. The founding of the GDR was framed as an antithesis to Nazi Germany by legitimizing its existence to a large extend through its antifascist stance. The exhibition describes this legitimation in several ways. In the part of the exhibition titled *Machtverhältnisse* (Power structures) it says: "[...] Unter der Kontrolle der sowjetischen Besatzungmacht schaffen sie die Grundlagen einer neuen Ordnung: den 'antifaschistisch demokratischen Neuaufbau'." ("Under the control of the soviet occupator they build the foundation for a new order: the 'anti-fascist-democratic reconstruction'."). The quotation marks show already that the character of this reconstruction is not considered to be really anti-fascist and democratic.

The antifascist character of the GDR is contested in other parts of the exhibition, too, through a, sometimes ironic, reference to a structural and personal continuity between Nazi-Germany and the GDR. Under the headline *Antifaschistischer Neuanfang*? (An anti-fascist new beginning?) a continuity is established between the NSDAP and the parties NDPD and DBD, which were open for former members of the NSDAP. Under the headline *Gründung der DDR* (Founding of the German Democratic Republic) it is more or less ironically stated "[...] Die DDR betont, das 'bessere Deutschland' zu sein. Der 'Antifaschismus' wird zum Propagandamittel und besonders gegen die Bundesrepublik eingesetzt. [...]" (...The GDR emphasizes to be the 'better Germany'. The 'anti-fascism' becomes an instrument of propaganda especially directed against the FRG.). Through this treatment of the argument of continuity in the exhibition, it is only presented from the Western perspective.

Interestingly, in the section about the *Gründung der Bundesrepublik Deutschland* (Founding of the Federal Republic of Germany) neither the NS-past nor antifascism are mentioned. Thus, the argument of continuity is used against the GDR by ironising its founding theme, whereas the question of continuity between Nazi Germany and the FRG stays unmentioned. One might interject at this point, that it is not the purpose of the exhibition to explore the history of West Germany. However, the exhibition in Leipzig is not just a part of a bigger exhibition but acts on its own. And, as will be discussed later, at certain keypoints the West German history is put in contrast to its East German counterpart. The argumentative

structure in the exhibition stands in direct contrast to the argumentation put forward by the GDR as shown by the example of the *Braunbuch* and *Die Wahrheit über Oberländer*. This clash of discourses becomes especially apparent in the section on the re-militarization of the two Germanies and the description of the first uniforms of the two German armies.

5. Uniforms and the continuity of military traditions

An issue that examplifies how the story of the anti-fascist GDR is being retold from a Western perspective in the "Zeitgeschichtliches Forum" is the treatment of army-uniforms. Both German states engaged in a policy of re-militarization in the Fifties and built new armies in 1956: the "Bundeswehr" in the FRG, the "Nationale Volksarmee" in the GDR. The exhibition displays the first uniforms of both armies, facing each other on the sides of an aisle; visually set in opposition to each other.

The descriptions of the two uniforms differ fundamentally. The uniform of the "Nationale Volksarmee" is displayed in the same area as the discussion about the "argument of continuity" and how it was directed against the FRG by means of publications like the *Braunbuch* and *Die Wahrheit über Oberländer*. This closeness in location suggests a juxtaposition of different forms of continuity: on the one side the accusation put forward by the GDR against a systematic continuity of Nazi-elites in West Germany, on the other side the presentation of the GDR as a state in continuity to the Nazi-Regime itself.

Under the headline "Deutsche Uniform" ("German uniform") the uniform of the Nationale Volkarmee is depicted as establishing a continuity from the Reichwehr, the army of the Weimar republic, to the army of the GDR. "Die Bekleidung der Nationalen Volksarmee ist bewusst nach dem Vorbild der Reichswehr-Uniform gestaltet. Sie steht für militärische Traditionen und Tugenden. Die SED möchte sie auf die Armee der DDR übertragen." ("The garments of the national peoples army have been consciously modelled after the Reichwehr-uniform. It stands for military traditions and virtues. The SED wants to project these values on the army of the GDR."). Therewith, the "Nationale Volksarmee" is presented as an army in the tradition of the "Reichswehr" – a "Reichwehr" which developed into a state within the state during the 1920ies and 30ies and did never form a democratic institution (see for example Rosenberg 1991). The virtues and traditions of the "Reichswehr" are by no means democratic and anti-fascist but rather authoritarian and sympathetic to fascist structures.

By drawing a line from the Reichswehr to the Nationale Volksarmee, the exhibition draws a line that crosses the Wehrmacht as the army of Nazi-Germany. The continuity between the "Reichwehr" and the "Nationale Volksarmee" may suggest, that there also exists a continuity between the Wehrmacht and the Nationale Volksarmee. This suggestive notion is strengthend by two features. First, the uniforms, as already mentioned, are displayed in the same area as the discussion of the *Braunbuch* and other documents, published by committees of the GDR in order to show the continuity between Nazi Germany and the FRG. Thus, the headline above the whole section could as well be *Continuities*. In this context the comparison of the uniform of the Nationale Volksarmee with the uniform of the Reichswehr, can be read as a comparison between the army of the GDR and the Wehrmacht. This comparison works as a synecdochy: the uniform represents the army and the state.

Second, the display of the uniforms is the only instance in which the history of the GDR is accompanied by the a description of the complementary development in the FRG. Not only the East German uniform is on display but also its equivalant from West Germany. Through the constructed opposition between the two, the suggestive character of the continuity between the Reichswehr and the Nationale Volkarmee is strengthened.

Set in opposition to the "Nationale Volksarmee" the "Bundeswehr", as the army of the FRG, is presented very differently. It is depicted as a democratic army, which consciously broke the German military tradition. Under the headline *Neubeginn* (A new beginning) the new uniform is described as follows: "Die erste Bundeswehr-Uniform zeigt das Bemühen, sich von der deutschen Militärtradition abzuheben; das 'Affenjäckchen' ist jedoch bei den Soldaten wegen seines kurzen, zivilen Schnitts nicht beliebt." ("The first Bundeswehr uniform shows the FRG's effort to distance itself from the German military tradition. However, because of its very short, civil fit, the soldiers do not appreciate the "monkey-jacket".). The Bundeswehr, and thereby the FRG, is clearly presented as the German state that broke with traditions, explicitly with military traditions. Treating the uniforms as a synecdochy for the armies and states they represent, leads to the conclusion, that the FRG broke systematically with Nazi Germany.

It is important to bear in mind that these arguments are presented in East Germany in an exhibition about the GDR. They are telling the story of the GDR and in a way they are retelling it. These arguments are not new to "learned GDR-

citizens"; they have heard them before, but from the other, the East German perspective. As well as the western politicians were a target of the argument of continuity in order to establish the GDR as the only antifascist and democratic Germany, so were the uniforms. One reason given in the GDR for accusing the other German state as being a direct successor of Nazi Germany was, that their uniforms resembled those of the Wehrmacht, thereby establishing a direct link. (Despite the lack of written testimony of this argument by now, friends assured me, that they remember this argument well.) Thus, with respect to the uniforms of the two German states and their resemblance with the Wehrmacht-uniform, the exhibition tells a story the citizens of the former GDR have heard before – just the other way around.

As already mentioned, the case of the two uniforms is not just an isolated example, but it is presented in the broader context of an assumed continuity between the GDR and Nazi Germany. This overarching story opens at the beginning of the exhibition by questioning the truth of the antifascist conception of the GDR. The big headline under which the founding of the GDR is described is *Antifaschistischer Neuanfang*? (antifascist new beginning?) and the question mark clearly shows the direction, which the exhibition takes. In the following sections the continuity between the GDR and Nazi Germany is established subtely, interwoven in different texts. Then, in the case of the uniforms the argument becomes articulated, especially through the juxtaposition with the West German army garment. Therefore, the depiction of the uniforms can be viewed as a synechdoche for the other German state.

6. The interchangeability of arguments and the question of irony
Which implications does the argument of continuity have for the understanding of contemporary public discourse? I want to offer two different ways in which this argument may function, although more than these two may exist.
Rorty (1989) describes the fundamental uncertainty about the finality of ones own vocabulary as well as the perspective that, when confronted with philosophical questions, the own vocabulary represents reality as well as other vocabularies do, as features of an ironic standpoint (127). An ironic perspective, according to Rorty, always takes into account that, although one lives by a certain vocabulary, one believed in other vocabularies before (127). Thereby, the central aspect of irony is distance – distance from the reasons one gives and distance from the own beliefsystem. This framework may shed light on the implications the

contemporary use of the argument of continuity has. In the "Zeitgeschichtliches Forum" the argument of continuity is solely directed against the GDR, thereby retelling the story of the GDR and putting the legitimation of the GDR in jeopardy. The reasons given are similar to those formerly employed by the GDR, directed against the FRG. The example of the uniforms of the German armies shows, how the realtivism of vocabularies is underscored through the use of the same reasons for different conclusions. This exhibited relativism may result in uncertainty for the former citizens of the GDR: First, the "old vocabulary" is put into question. Second, an ironic perspective towards public discourse is fostered through the obvious interchangeability of arguments.

For Rorty (1989) an ironic perspective with respect to public discourse is a threat to liberalism, as it contradicts solidarity. "Ironie scheint ihrer Natur nach eine Privatangelegenheit." (150, "Irony is private in nature."). The consequence Rorty draws is that the private and the public are to be distinguished. If the analysis of the argument of continuity at the example of the army-uniforms should be symptomatic for a broader context, one could conclude with Rorty that the ironic perspective, which is fostered in East Germany, is a threat to the liberal society.

Another perspective from which the consequences of the contemporary use of the argument of continuity may be viewed, is that of critical thinking. The direct encounter of a clash a discourses may as well enforce a critical attitude in the sense of critical thinking and thereby constitute the *foundation* for a liberal democracy. The distance, which is achieved through the evident interchangeability of the argument of continuity viewed from this perspective must not necessarily lead to an ironic perspective but rather to a critical perspective in the sense that the citizens do question the arguments used in public discourse, but they do not question the necessity of public deliberation and argumentation itself: they do not distance themselves from the instrument employed.

7. Conclusion

It is important to note that this essay does not mean to make a statement in favour of one of the two positions as far as the structural and personal continuity between Nazi Germany and the FRG and GDR is concerned: in howfar the two positions can be substantialized with empirical facts is a different, although important question. This paper solely aims at describing the functions of the argument of continuity and at exploring its use in contemporary public discourse in Germany.

The case of the argument of continuity, as it has been described in this essay, examplifies in which way the West German public discourse has captured its East German counterpart. Thereby an ironic perspective on public discourse might be supported. This ironic perspective can develop into two different directions: it can either lead to citizens removing from the public sphere, because the shift in vocabularies is set equal to the position that no "real" public discourse exists, or it can lead to a critical distance towards public discourse. Thus it can either threaten or enforce the liberal democracy in East Germany. With a look at the current state of *Politikverdrossenheit* especially in the East it seems worth the effort to carry this analysis further.

REFERENCES

Ausschuß für Deutsche Einheit (Ed.) (1960). *Die Wahrheit über Oberländer*. Berlin.

Hoenen, M.J.F.M. (1992). Analogie. In G. Ueding (Ed.), *Historisches Wörterbuch der Rhetorik.* (Bd.1, p. 498-514). Tübingen: Niemeyer.

Kappelt, O. (1981). *Braunbuch DDR. Nazis in der DDR*. Berlin: Elisabeth Reichmann.

Kienpointner, M. (1992). *Alltagslogik*. Stuttgart: fromman-holzboog.

Perelman, C. & Olbrechts-Tyteca, L. (1969). *The New Rhetoric*. Notre Dame: University of Notre Dame Press.

Podewin, N. (Ed.) (2002). *Braunbuch. Kriegs- und Naziverbrecher in der Bundesrepublik und in Berlin* (West). (Reprint of the 3rd Ed.). Berlin: edition ost.

Rorty, R. (1989). *Kontingenz, Ironie und Solidarität.* Frankfurt am Main: Suhrkamp.

Rosenberg, A. (1991). *Geschichte der Weimarer Republik*. Hamburg: Europäische Verlagsanstalt.

Stiftung des Hauses der Geschichte der Bundesrepublik Deutschland. *Zeitgeschichtliches Forum Leipzig.* Einsichten. (catalogue of the exhibition). Bonn/Leipzig.

ISSA Proceedings 2002 – Tu Quoque? Fallacy And Vindication In Appeal To Other People's "Wrongs"

1. "Practice what you preach or you're wrong": wrong?
Tu quoque is the type of argument trying to rebut standpoints by referring to speakers' conduct inconsistent with their standpoints. For example: A tells B to be less lazy in physical exercise. B answers A that he must be telling nonsense, because he is not performing any physical exercise himself. *Tu quoque* may also denote arguments referring to (direct) contradiction in speakers' standpoints, like: "You can't be right, because yesteryear you vigorously defended a completely contrary standpoint." This second (and probably less interesting) variety of *tu quoque* will not be discussed here.

Such arguments seem obviously fallacious, if only because of their complete lack of reference to any relevant subject matter. Whether physical exercise is a good or bad thing to do (at least in the sense of: being good or bad for health) is to be determined by medical evidence, not at all by any speakers' conduct in physically exercising themselves or not (see § 2 for further reasons against tu quoque reasoning).

Though simply fallacious at first sight, the well-nigh omnipresence of tu quoque in daily and even in professional and scholarly life may not just be a consequence of listeners' lack of intellect and dexterity in discussion. Actually, tu quoque appears to be something like an "umbrella" concept, covering a wide variety of types of reasoning, ranging from obvious fallacies to sound and important argument.

First, tu quoque fallacies may serve important argumentative and communicative purposes apart from rebuttal of speakers' standpoints, for example in showing up speakers' lack of integrity (see §§ 3 and 4). Second, not all argument presenting itself as tu quoque really is tu quoque in any fallacious sense. Legal and moral argument may look like tu quoque, but may in effect come down to sound argument from contract, precedent and "tit for tat" rules (see § 5). Also, varieties

of tu quoque are implied in and related to many more forms of interesting argument, for example in attempts to justify rules of conduct by reference to third parties' behaviour (see § 6).

Thus tu quoque appears to be not so much a simple fallacy as well as a highly useful complex of heterogeneous appeals to some or other kind of commitment, mutual or otherwise. Not so much avoidance of tu quoque may be the thing to do as well as to avoidance of conduct leaving room for tu quoque reactions. The essence of (avoidance of) tu quoque is positive commitment in the first place (§ 7).

2. Fallacious varieties, for fundamental reasons

Tu quoque arguments purport to lead to normative and/or evaluative conclusions, with few exceptions. It could not be otherwise, as tu quoque refers to inconsistency of utterance and conduct: "You tell me to do x, you yourself are doing non-x, so you're wrong". A descriptive tu quoque may not be a fallacy at all, as it may run along the following lines: "You're stating to me that human beings are x, you are non-x, so you must be wrong". Anyway, discussion will here be focused on evaluative and/or normative tu quoque arguments.

Norms and evaluations in tu quoque argument may be moral in some or other sense, for example concerning prohibitions to lie, or non-moral, again in some or other sense, for example concerning means to ends (think of the physical exercise example).

It will be taken for granted that the descriptive content of tu quoque arguments, relating to speakers' conduct, more or less conforms to the facts. Otherwise, tu quoque would be simply vitiated by depending on falsity instead of being fallacious in some or other more or less complex sense. Imagine a speaker telling somebody: "Don't you smoke!" and the listener retorting: "Nonsense, you're smoking yourself." The speaker may honestly answer: "No, you're wrong, I never smoked (though it does not matter as your answer is fallacious anyway)."

It is also to be taken for granted that evaluations and norms involved in tu quoque argument do apply to speakers themselves. Otherwise, the argument would stall from the beginning. For example: "You must be wrong about jogging being healthy, because you are sitting down more or less motionless all day" Against a cripple such an argument would not even get started. (But then the cripple might still perform healthy movements apart from jogging, within the confines of his physical handicap? Problems of similarity and analogy prop up here, see also § 6.) Without self-reference there is no tu quoque. This implies that one standard

answer to tu quoque will not do in normal circumstances, as "It was about you and not about me" implies relevant differences between speaker and listener.

Tu quoque may not only refer to speakers' present conduct, as in the example just discussed, but may also refer to speakers' conduct in the past: "How can you tell me not to experiment with drugs when you did so yourself as a teenager?" To such a tu quoque a fitting extra answer may be that the speaker experienced and learnt from the consequences of his own behaviour and thus is especially qualified to admonish any potential imitators: "I know what I'm talking about, so you'd better listen and do what I tell you".

Tu quoque may also apply to future conduct. An example from the history of the bar in The Netherlands: A legal scholar criticised the bar for relaxing professional moral standards and aiming solely at winning cases by whatever means. To this the dean of the bar association of The Netherlands answered: "Come on, nonsense, our legal scholar will immediately lose his moralising stance as soon as he gets involved in a lawsuit himself. Everybody wants to win." To this the legal scholar might have answered that he did not plan to ever get involved in any lawsuit, though such an answer might not have been fully convincing.

One last tu quoque variety here refers to what speakers would want to do in hypothetical cases. Thus in more than a few Western countries discussion is raging on standards for admission of foreigners on a temporary or permanent basis. Arguments may be overheard like: "Come on, you must be wrong in your pleas for liberalising admission regulations: would you be ready to house economical refugees yourself, if you got any room for them?!" (Problems of analogy here again, as speakers' housing foreigners may not be directly or even indirectly compared to admitting foreigners to the country.)

A tu quoque against an evaluative statement may run as follows. "I don't like oranges." "You're telling nonsense, I saw you peeling and eating one." "It's only for my health." In general, evaluative tu quoque may be much more easily rebutted, if only for its much looser connection with speakers' conduct. (It goes without saying that reference to past, present, future and intended conduct is apposite in evaluative tu quoque arguments as well.)

Practically effective as answers mentioned above may be, tu quoque in its simple forms as sketched above is all the more fallacious for at least two fundamental reasons. First, it obviously is a kind of fallacious *ad hominem*, a category error confusing truth-value or at least plausibility of statements (standpoints, propositions etc.) with facts concerning speakers and their circumstances. As long

as statements involved do not directly refer to such speakers and their circumstances themselves, tu quoque is fallacious for that general reason in the first place. (Let it be noted, though, that *ad hominem* is a complex problem in itself and that reference to speakers' personal qualities and circumstances does not always lead to fallacious argument *per se*, as will also appear shortly in discussion of non-fallacious varieties of tu quoque. See also Walton, 1998, with passing reference to tu quoque.)

Second, tu quoque is an is-ought fallacy, trying to derive norms from facts. Facts constituted by speakers' actual or hypothetical conduct or will are taken to be sufficient grounds against evaluations and/or norms. Complex as "is-ought" relationships may be (see Hudson, 1969), this kind of argument from facts to norms will not do. Indeed, speakers may simply answer that they themselves are doing things wrong as well.

A more practicable rebuttal of tu quoque may be an appeal to some or other "ought implies can" argument applicable to speakers but not to listeners, for example in terms of akrasia (weakness of will). Thus speakers having put forward some or other norm and having been confronted with inconsistency of utterance and action may answer: "Of course the norm involved applies to myself as well, however, I am unable to comply with it". Speakers may even answer that they were not only addressing themselves but all of humanity as well. Note that this answer is different from the contention that the norm involved does not apply to the speaker himself, as in the cripple case noted above: if so, there can be no tu quoque problem.

However (though this probably goes without saying), fallaciousness of tu quoque arguments against evaluations and norms of whatever kind does not at all imply any vindication of such evaluations and norms, as fallaciousness of arguments in general of course has no implications concerning truth-value or plausibility of conclusions. Thus a tu quoque remains a fallacy in principle, even if it may accidentally succeed in convincing people of the wrongfulness of the norms and evaluations they put forward. (Indeed, in this essay's title 'wrongs' was not put within parentheses for nothing.)

For example (without implying anything about really good reasons for and against in this case): somebody puts it that lying is prohibited in all possible circumstances, with no exceptions at all. A listener retorts by stating that the speaker lied to a killer who asked at gunpoint where his potential victim was. "So you must be wrong", the listener continues. Right, but not for the reason stated,

referring to speaker's conduct.

3. Tu quoque and problems of integrity, credibility and persuasiveness

Though tu quoque fails in refuting statements by referring to speakers' conduct not in line with such statements, tu quoque may still serve to show lack of speakers' integrity in putting forward norms or evaluations with which they do not comply themselves. Thus tu quoque may still lead to vindication of normative and even moral judgement, in condemning speakers' lack of integrity. Such integrity implications may put the moral standing of speakers put in jeopardy. Anybody not acting up to his own publicly avowed standards seems to be a less good person in some or other sense. Also, speakers' credibility suffers. People who don't do what they say may do so again.

This is directly connected to another sometimes interesting variety of tu quoque. Though speakers may be right in what they say, they may not be very effective in making other people believe them. Thus one favourite journalese pastime is bashing left-wing politicians living luxury lives. It may imply nothing about principles of left-wing politics as such (in as far as anything like "politics as such" makes sense and though more than a few right-wing media people would much like it to be otherwise), still people may not always be readily convinced by politicians who do not practice what they preach.

So a sometimes sensible variety of tu quoque may be something like: "You may be right, but why on earth are *you* telling me to do things the right way while you yourself are sitting still?!" This leads to one more variety (or implication) of tu quoque: whence the right of speakers' failing to live up to their own standards to chastise others? Should not moral ledger display some or other balance or evenness?

4. The Moral Ledger

Indeed, part of the attraction of tu quoque at least informally relies on "He who is without sin among you, let him be the first to throw a stone" (John 8:7). For example: "Why did you breach your promise, in not turning up according to our appointment? What you did is wrong and is to be resented, as it ought to go without saying that people ought to keep their promises". The listener (the "victim", in this case) may well retort: "Come on, don't you overdo things, this is the first time I forgot an appointment with you, up to now it was you who did not turn up and I remained silent about it."

Again, such an answer can be no rebuttal of any principle that promises are to be

kept. On the other hand, the listener may well put it that the speaker, though stating an uncontested moral principle, still is not justified in addressing the listener in such a way. Moral ledgers ought to be at least more or less even, if speakers are to chastise or even punish others. That is, apart from special circumstances like parents trying to educate children to live better lives than they themselves did. But even then the "he who is without sin" principle remains in force, not only because honest "teachers" will be all the more effective for it (see already § 3). Again, tu quoque may still lead to vindication of normative and even moral judgement, this time in condemning speakers' right to address their "victims" in such terms.

Confronting somebody with a norm or principle with which he did not or does not comply is a speech act with at least two important characteristics. First, the norm or principle may be conveyed, in the sense of being asserted to be true or at least plausible. Second, in many cases it indeed is, or is at least felt to be, a kind of chastisement or even punishment: the raised finger implied in telling people they did wrong, or will do wrong when they do not comply. This effect of the speech act is partly dependent upon the content of the norm put forward (for obvious reasons, evaluations are less relevant here), but goes much further, in at least implicitly stating something like: "You are less worthy for not having performed well, you deserve to be the object of resentment, punishment etc." (See on speech acts, illocutionary and perlocutionary force and related subjects Searle, 1969 and Searle, 1995.)

In fact, the "moral ledger" aspect of tu quoque is an application of a more generally important aspect of the relationships of content and utterance of norms, moral or otherwise. For example: a norm may be perfectly plausible, like: "Apart from overriding considerations, promises are to be kept." However, speech acts conveying such norms have their own morality, so to say: what are speakers doing to listeners (and to speakers' relationship with listeners) in telling them they have to stick to such a rule? Such speech acts (in preaching "life without sin" or even worse) may at times have more undesirable consequences than just upsetting the moral ledger, still apart from the often forgotten fact that few people are to be really edified by moral "education".

This holds good for non-moral principles, rules and evaluations as well, e.g. concerning public decency, etiquette and even technical rules prescribing conduct as means to ends (hypothetical imperatives). For example: somebody renowned for rude behaviour better be silent about other people's lack of

politeness, just as somebody who systematically fails to realise simple ends by clear means does not seem to be in a good position to tell others that they ought to be more effective in realising their ends in life.

Also, this "moral ledger" aspect of tu quoque is not limited to situations in which speakers put forward norms they do not comply with themselves. He who did wrong may better remain silent about the wrongs of others, even if other people's wrongs are not at all like the wrongs committed by a speaker who forgot not to commit them or at least to chastise himself in the first place: "D'abord faire métier de pénitent pour pouvoir finir en juge ..." (thus famously, and rightly, spoke Tarrou in Camus, 1947).

Though Camus had judges in mind and not public administrators, this last category may well deserve some chastisement here too. Thus in The Netherlands and in other countries, public administration is worried about citizens' public morality in paying taxes, sticking to (building) regulations in order not to pollute (the landscape), respecting other people's rights in road traffic and in general, and so on. Indeed, in The Netherlands advertisements appeared in the media, telling people: "Society? It is you!" More than a few citizens became enraged about this, asking why a public administration that itself systematically violates public regulations designed to protect human life (for example concerning fire proofing public spaces) and thus is guilty of loss of (several) human lives (at least in The Netherlands, in the past few years) has any right to address citizens in such a (supposedly paternalistic) fashion and to enforce the law against citizens while that very same law may be ostensibly disobeyed by government itself.

Several considerations are apposite here. First, integrity, credibility and persuasiveness problems prop up here again. Second, the moral ledger is apposite here too. Third, and in terms of some or other social contract as the basis of civil obedience, citizens may well come to think that they do not owe that much to a public administration not really caring for them in the first place, like (to maybe overdo things a bit): I'm left alone by government, why should I care for society as a whole? It's me myself first now". Traces of "tit for tat" may be recognised here as well. Indeed, not only contract and "tit for tat" like situations may show that important varieties of tu quoque argument are not fallacious at all.

5. Non-fallacious varieties: contract, precedent, custom, tit for tat
Up to now, the fallaciousness of tu quoque in a strict sense was beyond doubt, the discussion being directed toward informal implications of tu quoque that may still

be plausible in their own right or may even be really convincing some or other way, thus explaining part of the attraction of tu quoque. However, as just suggested, varieties of tu quoque may even constitute completely valid forms of argumentation by themselves. Such argumentation has to do with norms (and values) prescribing speakers' and listeners' conduct toward each other in particular.

Thus: "You must be wrong, because you don't do what you say" may be completely right in circumstances of promise and contract, legal or otherwise. For example: A promises B to sell and deliver goods to B on condition of payment by B upon delivery. A fails to deliver, but still tells B: "You are doing wrong by not paying me, as it is wrong in general not to live up to promise and contract". Here B may completely validly answer: "You are right in your general principle, but you're wrong in its supposed implication for me, as it was you who did not live up to justified expectations in the first place, so your norm must be wrong because you did not comply with it yourself." Though legal (and non-legal) promise and contract may be more complex, for example because one party may still legally enforce a standing contract if the other party does not comply, the principle is clear enough.

Precedent may lead to more or less comparably valid tu quoque argument. For example: twin kids are discussing pocket money issues. One tells the other: "You're wrong in asking for more, you got enough!" The other may retort: "Come on, you already got more pocket money (through pestering your parents etc.), so you're wrong." This is completely valid tu quoque argument, in the absence of any relevant differences between the twins concerned and given basic justice as equality. (Though not only legal scholars and practitioners ought to be aware of the silliness of any claim to be treated equally as such: relevant or irrelevant similarities and differences and thus underlying principle determine the value of precedent: see Kaptein, 1995.)

Next (and in line with contract, precedent and equality), "tit for tat" may not always be a sound principle, let alone a plausible moral principle, still it may still serve to show some truth in tu quoque varieties. It may not just be effective to counter like with like wrongs, as long as harm done is none too severe and in only to convey to wrongdoers what they actually did, it may also give rise to partial rebuttal or at least qualification of norms implicit in "tats" in the first place.

For example: an apartment tenant is annoyed by the noisy lifestyle of his (only) neighbours. After abortive discussion of the problem or even without it for that

matter, the apartment tenant simply pops up the volume himself. His protesting neighbours may well be confronted with a tu quoque by then. Did not they set the norm themselves in making noise in the first place? Though the norm of not audibly disturbing neighbours still stands, it may be qualified in case like the one sketched above: "No noise, apart from noise against noise started by neighbours".

"Two wrongs make a right"? Maybe, because the neighbours may go on to tell the tenant: "It is wrong to make noise" (or something like it). The tenant may rightfully answer in terms of a valid variety of tu quoque: "1. You did not comply with that norm yourself, 2. because you did so, another and overriding norm comes into force: though people generally ought not to make noise, repaying a debt, evening the playing ground again or even executing retribution come first, 3. which has to do with restoring equality, and 4. Which may well end the problem we started with."
This case also shows another more or less sound tu quoque, leading to one more conclusion: these specific neighbours, having started the noise themselves, lost their rights to appeal to any general "anti-neighbour noise" norm. Like in "tit for tat" cases in general, immediate and equal retaliation may even help end the disturbance as such.
"Tit for tat" is ubiquitous in may more situations. Think of two people cooperating in cleaning a room. One may tell the other: "Come on, you're being lazy." Against this the other may answer: "You're wrong. Given your inactivity, my working harder would only mean that I have been doing everything in the end and you would finish having done almost nothing, which is not fair." Note the appeal to some or other kind of equality here again.

Related to this, "tit for tat" may also have to do with adaptation to opponents' unacceptable but presumably unalterable conduct in order to still ensure an acceptable outcome. For example: lawyer Rodent tries to win a materially unjust case by exploiting the limits of civil procedure in viciously delaying court proceedings, thus hoping to force the defendants on their knees because thy are running out of money needed to pay their own lawyer. Then Rodent may be confronted with comparable frustrating tactics, in order to level the playing field again and to give material justice a fair chance. Against Rodent's complaints on such "tit for tat", his opponents may justify their retaliation in tu quoque fashion: "You can't say we are wrong in our frustrating tactics, because you did so yourself to start with, creating circumstances that forced us to answer like with like." Or:

somebody may wrongly create a situation which elicits a like answer, to be justified as inevitable, given the unacceptable conduct that created the whole problem (see also Aldisert, 1997, pp. 213 v.).

"Tit for tat" situations complex in other ways, in which "tat" is not identical but (more or less) analogous to "tit" can be mentioned only in passing here. For example: one child hits another in the face for having been pestered by his victim for too long. Or somebody refuses to pay any more attention to somebody having insulted her in public. Such situations may give rise to more or less sound and even fruitful tu quoque arguments as well.

An interesting and intricate variety of "tit for tat" tu quoque is to be found in Kant's famous attempt to justify retribution as the essence of state punishment and capital punishment in particular on the basis of the categorical imperative (see especially Kant, 1797, pp. 331 v.). Slightly simplified this argument runs as follows. According to Kant, we are to act according to rules (so called "maxims") we must be willing to accept as everybody's effective rule of conduct. This specific Golden Rule, or "categorical imperative" (famously formulated by Kant himself in different ways) seems to imply that a murderer, acting according to the rule that another person's life may be taken at will, implies that his life may be taken by others as well.

This is all the more interesting for its elegant, intricate and seemingly deeply convincing justification (rather briefly sketched here indeed) of deep-seated retributive sentiments against crime and criminals. Still this argument cannot be but fallacious in the end. Even if it may be put that a murderer himself cannot but will that license to kill applies to everybody, the question whether other people should will the same unto that murderer remains unanswered. In particular, the state meting out punishment is a third party in most cases and thus cannot simply put it that "tit for tat" may be applied by victims against offenders, as in the simpler cases sketched above.

6. Related forms of fallacy (and sound argument)

Adding to this complexity of tu quoque as a mixed bag of argument ranging from the completely fallacious to undeniable soundness is its relationship to other forms of argument. Here one related and interesting form of fallacy (and sometimes argument) will be discussed in particular: the appeal to other people's conduct (instead of appeal to speakers' conduct, as in tu quoque proper). Thus well-known mountaineer Ronald Naar tried to defend his leaving alone a dying Sherpa on an isolated Himalaya mountain slope – in the absence of any overriding

reasons – by appeal to the (by itself indubitable) fact that car drivers speed past highway accidents "as well". Sure enough, but even Naar may have to admit that such car drivers are acting wrongly. Analogously, Naar would have to put it as well that hitting somebody over the head may be justified by the given fact that people do get beaten up at times: "such is life". Sure enough, but ought things to be this way? An is-ought fallacy is committed here again. Still apart from more serious problems of analogy here too: may a deserted and isolated mountain slope be sensibly compared with a motorway in these specific respects?

From this it is only a small step to all too common fallacies like the (non-analogous) one committed by the mayor of Amsterdam in telling his citizens that it would be unjust not to install a separate inner city district council, because other parts of the city already have their own district councils. – OK mayor, one might retort, if Black Death breaks out in other parts of the city, then it would be unjust again not to spread this disease within the inner city as well … (note resemblance with the precedent problem discussed in § 5 above). Again, a social security service director criticised for inadequate performance tried to defend himself by pointing out that he is understaffed in comparison to other social security services in the country. Sure enough, but then these other centres may have been grossly overstaffed, in terms of sensible normative standards. Or (analogously again) German criminal courts letting neo-nazis go free "because Turks having committed genocide against the Armenian people in the early 20th century have not been punished either". And so on: the list of examples of this particular *non tu quoque sed alii* by analogy is virtually endless.

An interesting "why me" variety may be overheard in smoking circles. As may be well-known by now, cigarette boxes and other tobacco wrappings are adorned by ever more serious warnings against hazardous consequences of tobacco consumption. A cigarette smoker judged this unfair, "as car drivers are not at all confronted with like admonitions before they can start their engines in order to pollute the atmosphere". An implicit tu quoque fallacy hinted at here is something like: the cigarette box admonition is wrong, because it is not repeated elsewhere. However, the smoker may well have meant something like: though the admonition is not wrong in itself, it is wrong to confront smokers with it while car drivers go free. By this she may have implied something like: I suffer from it, while others go free. (But should not car drivers suffer from well-meant admonitions too?)

Note an analogy issue here as well: warnings against consequences of smoking tobacco and car driving are (probably correctly) taken as specifications of more

general warning against consequences of atmospheric pollution. Thus there is analogy in the sense of: both analogata are derivable from the same more general principle. (The smoker committed a "hop, skip and jump" manoeuvre, in deriving the background principle from the smoking issue, in order to next derive the car driving warning from the principle. See on this Kaptein, 1995.) (More than a few reminiscences here of the well-known complaint against drugs prohibition: alcohol is freely available … Fallacious of course as well, though drugs ought to be decriminalised anyway.)

Then there is what may be called the "tropical rain forest" argument. A Japanese businessman heading a wood-logging company was criticised for destroying the rain forests of Borneo. "Yes, it is a great pity" he retorted: "However, as soon as we would have left the scene, others would have stepped in to finish the job (and the forest). So leave me alone, I'm doing nothing wrong". Wrong, unless nothing can end the destruction of the rain forest and/or unless he does things in a less harmful way than others would do it. Lawyers taking in smelly cases like the same argument: "It makes no sense to want to be holier than the rest of the bunch, I may send clients away and they'll go next door". It may still make sense to try to be at least slightly holier than the rest (it is to be hoped).
On the other hand, not all reference to other people's conduct is completely fallacious regarding norms (or evaluations). Reference may be made to conduct that may not be really appropriate in the sense of: in accordance with relevant norms, but that may still be so widespread and socially accepted that nobody takes much offence. For example: A tells B that it is wrong to use the office photocopier for multiplying private documents. Then B may more or less validly answer: "In principle you're right, but everybody here does as I do, including the boss." This is related to problems of precedent again: though others may have committed wrongs before, their going free for it may be one good reason to accept like wrongs committed by themselves and by others in the future.

In simpler forms, reference may be made to generally accepted custom or even to conduct that is perfectly acceptable according to explicit norms. However, in the last case reference to other people's conduct is at least logically superfluous, as it is the norms that bear the brunt of the argument. For example: "I am perfectly justified leaving my hat on while sitting in church. Even the Queen does so." Sure, but then the rule is that women don't doff their hats.
To add to a probably already slightly complex picture, reference may be made to

"ought implies can" issues here too. One may protest against a norm put forward by pointing out that nobody complies with it. As such this is fallacious, until general non-compliance is more specifically interpreted as: general inability to comply. Thus somebody may tell a university student to study all day every day of the week, year round ("in the interest of your future" etc.). To such advice (silly anyway, of course) a student may answer: "Come on, no student ever does so and how could he, at an age of raging interest and emotion directed to so many other things in life." Right.

Lastly, a well-known and rarely heeded fallacy on so-called cultural relativism warrants some discussion here. "Because different cultures believe in and live up to different norms and values, there can be no generally ("transculturally") valid moral norms and values prescribing outlines of the good life for all human beings". Whatever may be of cultural relativism, this semblance of argument will not do to support it, as it leaves open the possibility that some (or even all) cultures are wrong in their beliefs and practices. Analogously, the existence of the "Flat Earth Society" and its sincere believers would preclude any objective statements on the shape of the earth.

Actually, there are two varieties in fallacious appeal to other people's beliefs (instead of to their conduct, as in standard tu quoque). First, as in the relativist argument outlined above, it may be sceptically put that there can be no truth in the matter because people disagree. Second, it may simply be put that somebody is wrong because other people disagree with him (traces of negative *ad verecundiam* here of course). In as far (non-relative) truth, justification and related notions are to be understood in some or other normative sense, such fallacies suffer from is-ought problems as well, in their appeal to what people factually believe.

Here it may be of interest to note that more than a few anti-sceptical arguments rely on tu quoque like argument in explaining performative contradiction in scepticists' beliefs and behaviour. Thus scepticists wielding fallacious tu quoque-like arguments in trying to reduce everything to the merely relative by pointing out differences of opinion and conduct or otherwise may be confronted with an *ad baculum*. Hit a scepticist over the head for no apparent reason and he will probably say (among other things): "You did wrong, I did not deserve this!" According to his own scepticism he is telling nothing, then, as their can be no appeal to any norms and values transcending his own subjectivity. So he'd better give up his scepticism (or shut up completely, like some of his famous forebears

from ancient Greece reputedly did).

7. Concluding inconclusive remarks

It may be clear by now that tu quoque is a thorough-going moral or even moralistic issue. Thus tu quoque would not even get started if it were normal for speakers to answer that purportedly general norms do not apply to themselves. Then a speaker might indeed simply answer any tu quoque by stating: "It was about you and not about me, so what are you talking about". Or: some or other kind of (moral) equality of human beings is presupposed by the whole tu quoque problem. And it goes without saying that positive uses of tu quoque-like argument as discussed here are unimaginable without basic moral commitments like that promises are to be kept.

In the end, the best way to tackle possible tu quoque issues may be: speaking and acting in such a fashion that no (reasonable?) person will be elicited to committing any tu quoque, fallacious or otherwise. This is what commitment comes down to. Behave yourself in the first place: tu quoque! Next: don't preach too much, not only because you may thus crush your own credibility in the first place.

No doubt, many varieties of tu quoque are left out of account here, from oversight, ignorance, or both. – If any reader were to object this against the present writer, she would no doubt receive an answer in tu quoque style: Go ahead, do better, go foster scholarship and maybe even life itself.

REFERENCES

Aldisert, R.J. [1988,] 1997). *Logic for lawyers: a guide to clear legal thinking.* Notre Dame, Indiana: National Institute for Trial Advocacy.

Camus, A. (1947) *La peste*. Paris: Gallimard.

Hudson, W.D. (Ed.) (1969). *The is-ought question: a collection of papers on the central problem in moral philosophy.* London: MacMillan

Kant, I. ([1797,] 1912). *Die Metaphysik der Sitten, Erster Teil: Metaphysische Anfangsgründe der Rechtslehre.* ([Königsberg: Friedrich Nicolovius,] Berlin: Georg Reimer ("Akademie-Ausgabe").

Kaptein, H.J.R. (1995). The redundancy of precedent and analogy, or: eat s**t, five billion flies can't be wrong. In F.H. van Eemeren, R. Grootendorst, J.A. Blair & C.A. Willard (Eds.), *Special fields and cases: proceedings of the third ISSA congress on argumentation, volume IV* (pp. 122-137). Amsterdam: SIC SAT.

Searle, J.R. (1969). *Speech acts: an essay in the philosophy of language.*

Cambridge: Cambridge University Press.

Searle, J.R. (1995). *The construction of social reality.* New York, Free Press.

Walton, D. (1998). *Ad hominem arguments*. Tuscaloosa & London: The University of Alabama Press.